NOTICE OF FILING

Details of Filing

Document Lodged:	Court Book
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Date of Lodgment:	25/03/2024 9:02:00 AM AEDT
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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Court Book Index

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule

Respondents

A.	PLEADINGS			
NO.	**DATE**	**DOCUMENT TITLE**	**FILED BY**	**PAGES**
1.	22 Dec 2022	Originating Application	Applicant	6 - 23
2.	24 Mar 2023	Statement of Claim	Applicant	24 - 33
3.	6 Apr 2023	Defence	Respondents	34 - 40
4.	14 May 2023	Amended Statement of Claim	Applicant	41 - 50
5.	1 Jul 2023	Amended Notice of a Constitutional Matter under s78B Judiciary Act 1903	Respondents	51 - 54

B.	OUTLINES OF SUBMISSIONS			
NO.	**DATE**	**DOCUMENT TITLE**	**FILED BY**	**PAGES**
6.	10 Aug 2023	Sex Discrimination Commissioner's Outline of Submissions	Sex Discrimination Commissioner	55 - 80

Filed on behalf of	The Applicant, Roxanne Tickle
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7.	13 Sep 2023	Applicant's Outline of Submissions	Applicant	81 - 86
8.	25 Oct 2023	Respondents' Outline of Submissions	Respondents	87 - 108

C.	MATERIAL FILED AND SERVED BY THE APPLICANT			
NO.	**DATE**	**DOCUMENT TITLE**	**FILED BY**	**PAGES**
9.	22 Dec 2022	Affidavit of Roxanne Tickle	Applicant	109 - 112
10.	22 Dec 2022	Annexures of Affidavit of Roxanne Tickle	Applicant	113 - 148
11.	13 Sep 2023	Affidavit of Roxanne Tickle	Applicant	149 - 156
12.	13 Sep 2023	Annexures of Affidavit of Roxanne Tickle	Applicant	157 - 285

D.	MATERIAL FILED AND SERVED BY THE RESPONDENTS			
NO.	**DATE**	**DOCUMENT TITLE**	**FILED BY**	**PAGES**
Respondents				
13.	24 Oct 2023	Affidavit of Sall Grover (First Respondent)	Respondents	286 - 290
14.	24 Oct 2023	Annexures of Affidavit of Sall Grover (First Respondent)	Respondents	291 - 425
15.	24 Oct 2023	Affidavit of Sall Grover (Second Respondent)	Respondents	426 - 450
16.	24 Oct 2023	Annexures of Affidavit of Sall Grover (Second Respondent)	Respondents	451 - 512

Lay Witnesses				
17.	23 Oct 2023	Affidavit of Louise Birt	Respondents	513 - 516
18.	23 Oct 2023	Affidavit of Alison Louise Hill	Respondents	517 - 521
19.	23 Oct 2023	Affidavit of Carole Ann	Respondents	522 - 525
20.	23 Oct 2023	Annexures of Affidavit of Carole Ann	Respondents	526 - 545
21.	23 Oct 2023	Affidavit of Louise Carrigg	Respondents	546 - 550
22.	23 Oct 2023	Affidavit of Azure Rose Rigney	Respondents	551 - 555
23.	23 Oct 2023	Affidavit of Victoria Bermudez	Respondents	556 - 558
24.	23 Oct 2023	Affidavit of Anaum Fathima Syed	Respondents	559 - 562
25.	23 Oct 2023	Annexures of Affidavit of Anaum Fathima Syed	Respondents	563 - 565
26.	23 Oct 2023	Affidavit of Ciantal Raisa Bigornia	Respondents	566 - 569
27.	23 Oct 2023	Affidavit of Mardi Sandford	Respondents	570 - 573
28.	23 Oct 2023	Affidavit of Dr Holly Lawford-Smith	Respondents	574 - 578
29.	23 Oct 2023	Annexures of Affidavit of Dr Holly Lawford-Smith	Respondents	579 - 589
30.	23 Oct 2023	Affidavit of Janet Fraser	Respondents	590 - 595
31.	24 Oct 2023	Affidavit of Jennifer Mimiette	Respondents	596 - 599
32.	24 Oct 2023	Affidavit of Samantha Jo Elson	Respondents	600 - 603

33.	29 Oct 2023	Affidavit of Juanita Lee Morgan	Respondents	604 - 609
Expert Witnesses				
34.	23 Oct 2023	Expert Report of Colin Wright	Respondents	610 - 625
35.	23 Oct 2023	Annexures of Expert Report of Colin Wright	Respondents	626 - 633
36.	23 Oct 2023	Affidavit of Colin Wright	Respondents	634 - 659
37.	24 Oct 2023	Expert Report of Helen Joyce	Respondents	660 - 691
38.	24 Oct 2023	Annexures of Expert Report of Helen Joyce	Respondents	692
39.	24 Oct 2023	Affidavit of Helen Joyce	Respondents	693 - 696
40.	24 Oct 2023	Annexures of Affidavit of Helen Joyce	Respondents	697 - 749
41.	23 Oct 2023	Affidavit/Expert Report of Kathleen Stock	Respondents	750 - 753
42.	23 Oct 2023	Annexures of Affidavit/Expert Report of Kathleen Stock	Respondents	754 - 815

E.	**INTERLOCUTORY MATERIAL FILED AND SERVED BY THE PARTIES**			
NO.	**DATE**	**DOCUMENT TITLE**	**FILED BY**	**PAGES**
43.	19 Apr 2023	Affidavit of Julie O'Brien	Sex Discrimination Commissioner	816 - 822
44.	5 May 2023	Affidavit of Sall Grover	Respondents	823 - 827
45.	5 May 2023	Annexures of Affidavit of Sall Grover	Respondents	828 - 849

F.	ORDERS		
NO.	**Author**	**DATE**	**PAGES**
46.	Justice Bromwich	1 Mar 2023	850 - 853
47.	Justice Bromwich	31 Mar 2023	854 - 856
48.	Justice Bromwich	28 Apr 2023	857 - 859
49.	Justice Bromwich	1 Jun 2023	860 - 862
50.	Justice Bromwich	16 Jun 2023	863 - 867
51.	Justice Bromwich	8 Aug 2023	868 - 870
52.	Justice Bromwich	11 Sep 2023	871 - 873
53.	Justice Bromwich	4 Oct 2023	874 - 876
54.	Justice Bromwich	18 Oct 2023	877 - 879
55.	Justice Bromwich	22 Nov 2023	880 - 881
56.	Registrar Lee	14 Feb 2024	882 - 883

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged:	Originating Application Under the Australian Human Rights Commission Act 1986 - Form 116 - Rule 34.163(1)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
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Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised

Registrar

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 116
Rule 34.163(1)

Originating application under the Australian Human Rights Commission Act 1986

No. of 20

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing: [Registry will insert time and date]

Place: [address of Court]

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Ms Roxanne Tickle
Prepared by (name of person/lawyer) Ms Corrina Dowling
Law firm (if applicable) Barry.Nilsson Lawyers
Tel (03) 9909 6300 Fax
Email Corrina.Dowling@bnlaw.com.au
Address for service (include state and postcode) 6/600 Bourke Street, Melbourne, VICTORIA, 3000

[Form approved 01/08/2011]

Details of claim under the Australian Human Rights Commission Act 1986

The Applicant claims that:

1. The Applicant is a woman residing in New South Wales. The Registry of Births, Deaths and Marriages in Queensland (the Applicant's state of birth) has issued the Applicant with an updated birth certificate which designates her gender as female, following her transition from male to female.

2. In or around February 2021, the Applicant downloaded a digital application ('app') to her mobile device known as 'Giggle', which is marketed as a platform exclusively for women to share experiences and speak freely in a 'safe space'.

3. Giggle is wholly owned by the first named respondent, Giggle for Girls Pty Ltd (the **First Respondent**). The CEO of the First Respondent is Ms Sally ('Sall') Grover (the **Second Respondent**).

4. To access to the app, users are required to provide information including a self-taken photograph of their face (a 'selfie') and upload it to the platform. It is clearly stated that a person must be a woman in order to gain access to the platform.

5. Once uploaded, the 'selfie' is assessed by third-party artificial intelligence (**AI**) software that determines whether the aspiring user is a man or a woman. If the AI accepts the 'selfie' as that of a woman, the user is provided full access to the platform.

6. The Applicant undertook this process upon downloading the app. The AI determined that the Applicant was a woman, and she was provided with full access to the app's functions.

7. Between February 2021 and September 2021, the Applicant enjoyed full access to the app's features and used the app to read content posted by other users.

8. In late September 2021, the Applicant logged into the app and found that she could no longer post content, read or comment on posts made by other users on the platform. When the Applicant attempted to purchase the 'Premium' features available on the app, she received a 'User Blocked' message.

9. In late September 2021, the Applicant attempted to contact the First Respondent via an in-app contact form to raise the issue. She received no response from either the First Respondent or Second Respondent.

10. In October 2021, the Applicant sent a total of six emails to the First Respondent regarding her restricted access to the app. The Second Respondent, Ms Grover, replied to one of the Applicant's emails and requested that the Applicant provide her with her phone number. The Applicant did so but did not receive any phone call from Ms Grover.

11. In late October 2021, the Applicant attempted to contact the phone number listed in the Second Respondent's email signature via SMS and two phone calls. She received no response.

12. On 5 December 2021, the Applicant made a complaint to the Australian Human Rights Commission (**AHRC**) under section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**), naming both the First Respondent and the Second Respondent. It was the Applicant's assertion that in being granted limited functionality to the app, she was being discriminated against on the basis of her gender identity. The Applicant wrote:

I believe that I am being discriminated against by being provided with extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.

13. On 20 January 2022, the AHRC sent a copy of the complaint to the Respondents.

14. On 3 March 2022, the Feminist Legal Centre (**FLC**) sent a reply to the AHRC on behalf of the Respondents.

15. The Respondents asserted that:

    a. The Applicant was considered male based on a visual inspection of the selfie provided and was removed form the app on that basis. Further, the Applicant's gender identity was not known to the Second Respondent or other Giggle personnel at the time of removal and did not inform the decision to preclude the Applicant from the app.

    b. Giggle constitutes a special measure aimed to achieve substantive equality between men and women and its exclusion of males is reasonable in the circumstances; as such, the exclusion of males by Giggle falls within the exceptions provided pursuant to sections 7N, 7D and 32 of the SDA.

16. On 21 March 2022, the Second Respondent tweeted from the twitter account @salltweets, '[i]n January 2022, I received an Australian Human Rights Commission complaint against both Giggle and me personally, from a **trans-identified male** who wants to use a social networking app for females & for me to be re-educated on sex and gender.' [emphasis added]

17. On 1 April 2022, the AHRC advised the Applicant that the Respondents had declined to participate in conciliation.

18. On 5 April 2022, a delegate of the President of the AHRC provided the Applicant with notice that they were terminating the complaint pursuant to section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (**AHRCA**), on the grounds that they were satisfied there was no reasonable prospect of the matter being settled by conciliation.

19. On 1 April 2022, *The Australian* newspaper published an article entitled *Echoes of Orwell: in threat of women's rights and safety* by Angela Shanahan. The subject of the article was the Applicant's complaint to the AHRC, whereby the Second Respondent is quoted saying, '*the person was removed from the Giggle app because they are male, no other reason. The removal was manual. I looked at the onboarding selfie and I saw a man. The AI software had let them through, thereby making a mistake that I rectified.*'

20. On 6 June 2022, the applicant filed an application in the Federal Circuit and Family Court (SYG808/2022) with the assistance of her then legal representatives, the Inner City Legal Centre (**ICLC**), seeking orders pursuant to s 46PO(4) of the AHRCA.

21. The matter was listed for a Directions Hearing before Her Honour Judge Laing on 8 July 2022.

22. On or around late June/early July 2022, comments posted on the Second Respondent's Twitter feed led the Applicant and her representatives to believe that the Respondents intended to raise constitutional issues in their defence. These issues were not particularised, but the Second Respondent commented that she was willing to 'take the matter all the way to the High Court'.

23. Being unwilling to bear the risk of an adverse costs order in the High Court on 4 July 2022 the Applicant filed a Notice of Discontinuance with the Court and the matter was discontinued.

24. The Applicant subsequently received limited funding to cover any adverse costs order that may be made against her and now wishes to pursue her claim.

25. The Applicant now seeks leave of the Court to bring this application out of time.

Legislation

The Applicant claims that the discrimination complained of is unlawful under the *Sex Discrimination Act 1984* (Cth), sections 4, 5B(1)(a), 5B(1)(B), 22(a) to (c), 86, 94.

Remedy sought

The Applicant asks the Court for:

1. declarations that the First Respondent contravened sections 4, 5B(1)(a), 5B(1)(B) and 22(a) to (c) of the *Sex Discrimination Act 1984* (Cth);
2. declarations that the Second Respondent contravened sections 4, 5B(1)(a), 5B(1)(B) and 22(a) to (c), 86 and 94 of the *Sex Discrimination Act 1984* (Cth);

3. general damages;
4. a published written apology from the Respondents;
5. an order that the First Respondent to must allow the Applicant the same access to the App as is provided to other female users upon the First Respondent's usual terms of trade;

Accompanying documents

This application must be accompanied by:

1. A copy of the original complaint to the Australian Human Rights Commission.
2. The notice of termination of complaint given by the President of the Australian Human Rights Commission.

Applicant's details

The Applicant's relationship to the Respondent is customer.

The Applicant is over 18 years.

Extension of time

Date of issue of notice under section 46PH(2) of the *Australian Human Rights Commission Act 1986*: 5 April 2022.

The Applicant asks for an extension of time to lodge this application because the Applicant faced access to justice issues which led her to discontinue her prior application which was made within time. In particular, the Applicant was unwilling to accept the financial risk of a potential adverse costs order. However, since discontinuance, the Applicant has secured (limited) funding for adverse costs indemnity and now wishes to pursue the claim.

Applicant's address

The Applicant's address for service is:

Place: 6/600 Bourke Street, Melbourne, VIC 3000

Email: Corrina.Dowling@bnlaw.com.au and Heloise.Williams@bnlaw.com.au

The Applicant's address is [redacted]

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 22 December 2022

Signed by **Corrina Dowling**
Solicitors for the Applicant

Schedule

No. of 20

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights Division

Respondents

Second Respondent: **SALLY GROVER**

Date: 22 December 2022

From: Australian Human Rights Commission
To: [redacted]
Subject: AHRC Make a Complaint Form
Date: Sunday, December 5, 2021 10:11:47 PM

Australian Human Rights Commission

Complaint

Your Details (Your complaint)

Name: **Ms Roxanne Tickle**

Address:
[redacted]

Email: [redacted]
Phone (After hours):
Phone (Business hours): [redacted]
Mobile:
Fax:
TTY:

Would you like a copy of your complaint emailed to you: **Yes**
(A copy of the complaint form will be sent to [redacted])

Do you require assistance to participate in the complaint process?:
No



Do you require assistance to participate in the complaint process?:
No

Do you have a legal representative or advocate?
No

Who is the complaint about

Organisation Details

Organisation name: **Giggle for Girls Pty Ltd**
ABN: **79 632 152 017**

Address:

Email: **hello@giggle-girl.com**
Phone (Business hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Provider of smart phone application

Do you want to add another respondent?
Yes

2nd Respondent's Details
Name: **Sall Grover**

Address:

Email: **sall@giggle-girl.com**
Phone (Business hours):
Phone (After hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Giggle for Girls Pty Ltd's Chief Executive Officer

What are you complaining about

I have been discriminated against because of my:

age: **No**
disability: **No**
association to a person with a disability: **No**
use of an assistance animal or disability aid or because I have a carer: **No**
sex: **No**
pregnancy: **No**
marital or relationship status: **No**
family responsibilities: **No**
sexual orientation: **No**
gender identity: **Yes**
What is your gender identity? **Female (more specifically ... a transgender woman)**

intersex status: **No**
race (including colour, national origin, descent, ethnicity and immigrant status): **No**
trade union activity (employment only): **No**
criminal record (employment only): **No**
religion (employment only): **No**
social origin (employment only) : **No**

Please state the other reason(s):
I believe that I am being discriminated against by being provided extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.

When did the alleged event(s) happen?
I became aware that I was being treated differently in September 2021.

Reason(s) for delay

What happened?
What Happened to Me 1. In February 2021, I downloaded Giggle from the Apple iPhone App Store and completed its in-app registration process. 2. Giggle is a social media app. It is marketed as "the female app". 3. The app registration process included supplying my mobile phone number, choosing a user name and taking a "selfie" from within the app. 4. Giggle's provider is Giggle for Girls Pty Ltd, a company based in Queensland. 5. Giggle for Girls Pty Ltd's CEO is apparently Sall Grover. 6. Giggle is marketed to, and is apparently used by, a global user base. 7. Giggle's terms clearly stipulate that app users must be female. 8. I am a NSW resident. 9. Although my sex assigned at birth was male, my birth certificate has been reissued confirming that my sex is female. I also have a gender confirmation letter from my physician

confirming that my gender is female. 10. Giggle apparently uses so-called bio-metric gender verification software to determine whether the registering user is "male" or "female" based on their "selfie", as well as using human beings in a secondary process to verify the software's gender determination. Presumably the gender verification software attempts to determine the applicant's sex assigned at birth, rather than their current legal sex or gender. 11. The so-called bio-metric gender verification software and human beings apparently both determined that my gender was female as I was permitted to complete my app registration. 12. Between February 2021 and September 2021, I occasionally opened the app and read randomly selected posts. 13. In late September 2021 I noticed that although I was able to read posts made by other users, I was unable to make comments on any of these posts, read any comments made by other app users or make any posts myself. I contacted Giggle through its in-app contact form to alert them of my restricted use. I received no response. 14. In early October 2021, I sent a follow up email to the main contact email address (sall@giggle-girl.com) listed on the app's website (joinagiggle.com). I received no response. 15. A week later I sent an email to the main contact email address (sall@giggle-girl.com) and the generic welcome email address (hello@giggle-girl.com). I received a response requesting that I supply my mobile phone number so the problem could be looked into. I provided my mobile telephone number as requested. I received no further response. 16. Over the next 4 weeks I sent a further 6 emails following up my query. I received no response to any of them. 17. I sent another follow up query through the in-app contact form. I received no response. 18. The singular emailed response that I did receive from Giggle, apparently from Sall Grover, contained an email signature panel with a mobile telephone number. 19. In late October 2021, I sent a text message to this number. I received no response. 20. In late October 2021, I made an unanswered phone call to this number. I decided to not leave a voice mail message. The voice mail system was one where the audio message is converted to a text message. After the trouble I had gone to to try and talk with the app provider, I thought direct voice communication was the best option. The following morning, I missed a returned phone call from this number. The caller did not leave a message. I tried calling the phone number again 1 week later and was unable to get through. 21. I considered at that point that I had gone over and above a reasonable level of effort attempting to make contact with the provider of the app. 22. My use of the app does not appear to be terminated, but vastly restricted. When I attempt to access certain app functionality, I am presented with a "User Blocked" error message. I am presented with the same error message if I attempt to purchase Premium Features in the app. 23. It appears that Giggle's provider only wishes cisgender women and transgender men to register for and use the app, apparently deliberately intending to exclude transgender women, cisgender men, and non-binary people. 24. Tweets published by Sall Grover's Twitter handle (@salltweets) appear to show a poor understanding of sex and gender, often using the terms interchangeably. The Twitter handle commonly refers to transgender

women as men and transgender men as women. 25. I have felt increasingly uncomfortable by announcements made by Sall Grover, both on Twitter and in interviews with various media outlets, both local and international, as well as posts made within the Giggle app itself by Sall Grover and other app users. 26. Transphobic comments posted in the app's social media discussion threads appear to not be moderated, and in fact appear to be encouraged, both within the app, and on Twitter, by Sall Grover. 27. I believe that I am being discriminated against because of my gender identity. I believe that Giggle and Sall Grover have decided in error that I am male and have declined to grant me full use of the app. If this is true, I am uncertain why I have been permitted to retain partial use of the app. How Does it Happen to me and Others? As a resident of NSW, along with other protected categories of people including those based on race, disability, sex, age, sexual orientation, intersex status, marital status and others, I am meant to be protected from discrimination based on my gender identity by legislation at both the state and federal level. This safety net appears to me to have some holes in it. Discrimination based on gender identity still seems to be fair game. It is often left to transgender and gender diverse people and their direct allies to be reactive at the time and place of any discrimination. It appears still to be an accepted form of bigotry amongst many people. Everybody has the right to be a bigot, somebody once said, and many people are continuing to make use of that right. It is the bigotry that need not hide its face. I can't recall hearing of an actual group of people that actively discriminates based on age. I have been unable to locate a Facebook page or website for the Ku Klux Klan in Australia. Yet groups that favour discrimination against people based on their gender identity appear to have no need to hide their face. They have Facebook pages. They have websites. They have email addresses. Here is a sample of Australian groups that have no fear in condoning and/or encouraging discrimination against transgender and gender diverse people: • Coalition for Biological Reality • LGB Alliance Australia • Save Womens Sport Australasia • Women Speak Tasmania • IWD Brisbane Meanjin • Feminist Legal Clinic Inc. Not only that, individuals with platforms, including journalists, politicians, business people, lawyers and others have no qualms about speaking out against transgender and gender diverse people and encouraging their readers, listeners and/or constituents to discriminate against transgender and gender diverse people. They don't campaign for legislative change, mind you, they just openly encourage discrimination. Because they are seemingly allowed to. In fact, for some of them it often appears to be their raison d'être. Here are a handful of examples: • Sall Grover: https://www.youtube.com/watch?v=4bqXNXQwgpk • Associate Professor Holly Lawford-Smith: https://www.youtube.com/watch?v=9GeTliLuoUs • Peta Credlin AO: https://www.skynews.com.au/opinion/peta-credlin/erasing-women-nsw-woman-of-the-year-could-be-awarded-to-a-trans-woman/video/a2c774ae1882c3d6fd9a79b256d4c36d • The Honourable Mark Latham MLC: https://www.news.com.au/national/nsw-act/politics/mark-latham-seeks-to-outlaw-ability-to-identify-as-

transgender-and-rejects-gender-fluidity/news-story/217dca3f008fb57ec825a4ef69a1156c • Senator Amanda Stoker: https://qnews.com.au/queensland-lnp-senator-calls-for-support-to-fight-transgender-agenda/ • Senator Pauline Hanson: https://www.starobserver.com.au/news/pauline-hanson-says-transgender-children-should-be-taken-from-parents/197282 • The Honourable Scott Morrison MP: https://www.sbs.com.au/news/gender-whisperers-scott-morrison-criticised-for-hateful-tweet-about-trans-students/513b958c-4dce-49a7-85ea-ebc9d3c6792d • Kirralie Smith: https://twitter.com/KirralieS/status/1159717711317889024?s=20 • The Honourable Barnaby Joyce MP: https://omny.fm/shows/drive-with-tom-elliott/barnaby-joyce-fires-back-at-mother-of-transgender • Senator Claire Chandler: https://fb.watch/9H_jLrMCxx/ • Annie Kia: https://anniekia.net/10-uncritical-allegiance-the-harms-of-queer-ideology/ • Katherine Deves: https://www.youtube.com/watch?v=U6sor5C3Y60 • Bernard Lane: https://www.smh.com.au/business/companies/substantial-distress-press-watchdog-rebukes-the-australian-for-reporting-on-gender-issues-20210903-p58oi7.html These are just some names that spring to mind and some easily found relevant material. I could go on and on if I had the time and resources. To the best of my knowledge, none of the individuals mentioned above have any qualifications or experience in psychology, psychiatry, paediatrics, gender counselling or indeed any relevant area of primary or ancillary health care. Why is it, then, that they believe that they get to control the public narrative about our lives? What is the point of having legislation to protect us from discrimination when it appears that so many people with such prominent platforms have no regard for it? Not only that, but they openly and unashamedly encourage their readers, listeners and/or constituents to flout the legislation as well. Transgender and gender diverse people, along with their closely connected allies, are often left to defend themselves against incidences of discrimination. Often, they overlook the discrimination due to the huge amount of emotional labour and stress involved in following up and prosecuting the discrimination. This is overwhelmingly the case when Sistergirls and Brotherboys are involved, as it usually is with any other instances of intersectionalism. My complaint relates to what I believe has been, and continues to be, discrimination against me, but I have also witnessed other trans women and their allies ejected from Giggle without repercussion. I have witnessed other instances of discrimination and verbal assault based on gender identity. People usually say nothing, put their head down and attempt to carry on with their lives with a concomitant decline in their mental health. We have often tended to attempt to live with discrimination in the past because obtaining a favourable outcome, although it may be better for our mental health in the long term, is only good for our mental health if we are successful … when we are successful. Until then, if it indeed happens, it is detrimental to our mental health. So we usually put our head down and try to move on. Acts of discrimination against transgender and gender diverse people happen far too frequently, without penalty. Why is it

that trans and gender diverse people and their allies are often left alone to fight to defend their already existing legal rights? Must we be the ones to take legal action each and every time it happens? Must we? Surely there must be a better way?

Do you intend to email the Commission supporting information?
No

Upload Document File ID:

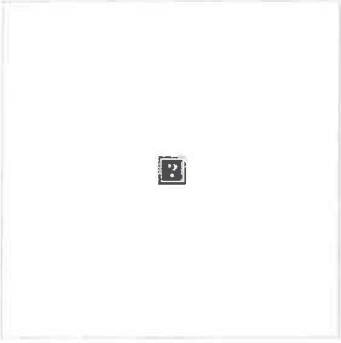
Other Information

How do you think the complaint could be resolved?
Giggle management should seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females". Giggle should extend full app functionality to me and all other people that identify as female as long as they comply with all other app terms & conditions.

Have you complained about this to another organisation?
No

Were you referred to us by another organisation?
Yes

Organisation's name: **Queensland Human Rights Commission**



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AUSTRALIAN HUMAN RIGHTS COMMISSION

FILE NO: 2021-25534

Between

Roxanne Tickle
Complainant

AND

Giggle for Girls Pty Ltd
(ABN 79 632 152 017)
First Respondent

Sall Grover
Second Respondent

NOTICE OF TERMINATION

Issued under section 46PH(2) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA).

This complaint alleging unlawful discrimination under the *Sex Discrimination Act 1984* (Cth) has been terminated under section 46PH(1B)(b) of the AHRCA on the ground that I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

Section 46PO(1) of the AHRCA provides that if a complaint has been terminated under section 46PH(1B)(b) of the AHRCA, an affected person may make an application to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) alleging unlawful discrimination by one or more of the respondents to the terminated complaint. The FCFCOA and FCA can award costs against either party in proceedings under section 46PO of the AHRCA.

Reasons for this decision are provided in Attachment A.

A copy of the complaint is provided at Attachment B.

DATED 5 April 2022.

Hyun Joo Lee
Delegate of the President

Australian Human Rights Commission

ATTACHMENT A

Our ref: 2021-25534

5 April 2022

Ms Roxanne Tickle
Sent by email only: [redacted]

Dear Ms Tickle

Termination of the complaint

I am writing to advise you of my decision regarding your complaint to the Australian Human Rights Commission (the Commission) against Giggle for Girls Pty Ltd (Giggle) and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth).

The complaint

Documents

Your complaint totals 7 pages, a copy of which was emailed to you on 20 January 2022. Another copy is provided with this letter marked as Attachment B.

Respondent contact

A copy of your complaint was provided to the respondents on 20 January 2022. The Commission received a reply from the respondents on 3 March 2022. The Commission emailed you a copy of this reply on 8 March 2022.

My decision

Under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA) the President must terminate a complaint if satisfied that there is no reasonable prospect of the matter being settled by conciliation.

I note that the Commission shared information with both parties about the Commission's complaint handling and conciliation processes. I understand that Giggle and Ms Grover declined to participate in conciliation. Accordingly, it did not appear that the complaint could be resolved by conciliation.

I have therefore decided to terminate the complaint under section 46PH(1B)(b) of the AHRCA as I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

Possible further action

The AHRCA says that after a complaint is terminated, the person affected by the alleged discrimination may be able to apply to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) to have the allegations decided by the court.

If you apply to the FCFCOA or the FCA, you will need to attach the following documents to the application:

- this letter (Attachment A);
- the enclosed Notice of Termination; and
- the enclosed copy of the complaint (Attachment B).

Any application to the court must be made within 60 days of the date on the Notice of Termination.

If a matter proceeds to court, the FCFCOA and FCA can award costs against either party. Information about the court or the court process is available from a court registry or from its websites at www.fcfcoa.gov.au and www.fedcourt.gov.au.

Yours sincerely

Hyun Joo Lee
Delegate of the President

NOTICE OF FILING

Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	24/03/2023 3:16:04 PM AEDT
Date Accepted for Filing:	24/03/2023 4:22:17 PM AEDT
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 17
Rule 8.05(1)(a)

Statement of claim

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

Roxanne Tickle

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule

First Respondent

A. THE PARTIES

1. The Applicant, Roxanne Tickle, is a natural person who can sue and be sued in her own name.

2. The First Respondent, Giggle for Girls Pty Ltd (ABN 79 632 152 017):

   a. is an Australian proprietary company, limited by shares that is wholly owned by and operated through a holding company called Wadd Holdings Pty Ltd (ABN 66 632 151 154);

   b. is a trading corporation; and

   c. is subject to the *Sex Discrimination Act 1984* (Cth) (**SDA**) including by reason of section 9(11), (12), (13) and (21).

3. The Second Respondent, Sally Grover:

   a. is a natural person capable of suing and being sued;

   b. is the sole director and Chief Executive Officer of the First Respondent;

   c. at all material times, was the controlling mind of the First Respondent;

   d. as an officer of the First Respondent, is a person to whom the SDA applies for the purpose of section 9(11) and (13) of the SDA;

Filed on behalf of (name & role of party) The Applicant
Prepared by (name of person/lawyer) G A Costello KC and Tinashe Makamure
Law firm (if applicable) Barry Nilsson Lawyers
Tel 03 9909 6365 Fax
Email Tinashe.Makamure@bnlaw.com.au / Corrina.Dowling@bnlaw.com.au
Address for service (include state and postcode) Level 6, 600 Bourke Street, Melbourne, VIC 3000

e. uses the social media platform, Twitter where she is identified by the username "Sall Grover";

f. uses a "Twitter handle" "*@salltweets*"; and

g. describes herself as the *"Founder & CEO of Giggle, a female social network"*.

4. The First Respondent owns and operates the Giggle App.

5. The Giggle App:

a. is a digital application that can be downloaded for use on various electronic devices including mobile phones and tablets called 'Giggle'; and

b. is a service, in so far as it relates to entertainment and/or reaction, and/or an available facility for the purposes of section 22 of the SDA.

B. THE APPLICANT'S GENDER

6. The Applicant is a woman.

7. Since on or around 2017 the Applicant has:

a. presented her physical appearance to be female; and

b. gone by the female name of 'Roxanne Tickle'.

8. The Applicant underwent gender affirming surgery in October 2019 by which her gender as a woman was affirmed.

9. The Applicant's birth certificate issued by the Queensland Registry of Births, Deaths and Marriages in or around January 2020 states that the Applicant is female.

10. In the circumstances that the Applicant was assigned male gender at birth and transitioned to female gender as set out above:

a. the Applicant's gender-identity is female; and

b. the Applicant's intersex status means she has physical, hormonal and/or genetic features that are a combination of female and male.

11. The Applicant is a person protected from being unlawfully discriminated against because of her:

a. perceived gender identity as a transgender person; and

b. intersex status –

within the meaning of section 4 of the SDA.

C. THE GIGGLE APP

12. The Giggle App is described on both the Google Play Store and the App Store (**Stores**) as follows:

> *"Made for Women by Women. Connect on Giggle about the latest Issues, politics, gossip, news and more. Promote your business and or yourself, find accomodation [sic] and roommates, connect privately to discuss your most intimate thoughts – all with mutual consent – and without unwanted interruptions and misogynistic abuse."*

13. To use and access the Giggle App, users are required to download it, then provide information, including a self-taken photograph of their face (a 'selfie') and upload it to the platform (**Application Process**).

14. Once uploaded, the 'selfie' is assessed by third-party artificial intelligence (**AI**) software, that determines whether the aspiring user is a woman (**Assessment Process**).

15. The AI software used in the Assessment Process is configured at the direction of the First and Second Defendants.

16. If the AI accepts the 'selfie' as that of a woman, the user is provided full ordinary access to the platform through an individualised logon facilitated by a personal username and confidential password (**Ordinary Access**).

17. Decisions made by the AI software to either accept or reject a person onto the Giggle App can be manually overridden by a person with the appropriate controls of the platform (**Override Powers**).

18. At all material times, the Second Respondent controlled the Override Powers on behalf of the First Defendant.

19. The Giggle App has a range of accessibilities that vary from those not requiring payment to those that require payment, with the highest level of access being called "Premium".

D. APPLICANT'S ACCESS AND USE OF THE GIGGLE APP

20. In or around February 2021, the Applicant downloaded the Giggle App to her mobile device and completed the Application Process.

21. The AI undertook the Assessment Process and found correctly that the Applicant is a woman and so granted her Ordinary Access to the platform.

22. Between February 2021 and September 2021, the Applicant enjoyed Ordinary Access to the Giggle App which included allowing her to post content, read content posted by other users and leave comments on posts.

23. In or around September 2021, the Second Respondent used the Override Powers to restrict the Applicant's access to the Giggle App (**Restricted Access**).

24. The First Respondent provided Restricted Access because the Second Respondent treated the Applicant as if she was not a woman.

25. In or around late September 2021, the Applicant logged onto the Giggle App but found that she no longer had Ordinary Access in that she could no longer post content, read, or comment on content posted by other users because of the Restricted Access.

26. At or around the same time, the Applicant attempted to purchase the Premium features available from the Giggle App but received a "User Blocked" message because of the Restricted Access.

27. In or around late September 2021, the Applicant attempted to contact the First Respondent through a contact form on the Giggle App to raise the issue (**First Attempted Contact**). The Applicant did not receive a response to her First Attempted Contact.

28. In October 2021, the Applicant sent more than six emails to the First Respondent regarding the Restricted Access (**Further Attempted Contact**).

Particulars

i. The Applicant attempted to contact the First Respondent through the contact form on the Giggle App.

ii. The Applicant further attempted to contact the First Respondent through a general email address that was available on the First Respondent's website.

iii. The Applicant also tried to contact the First Respondent by telephone but was unsuccessful.

29. The First and Second Respondent did not provide any substantive response to the Applicant.

E. TERMINATION OF COMPLAINT BY AUSTRALIAN HUMAN RIGHTS COMMISSION

30. By notice of termination dated 5 April 2022 given under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (**AHRC Act**), the Australian Human Rights Commission terminated the Applicant's complaint alleging unlawful discrimination by the First and Second Respondent.

31. The Applicant is an "affected person" under section 46PO(1) of the AHRC Act, and by reason of the termination of her complaint as alleged in paragraph 31, is entitled to make an application to the Federal Court of Australia alleging unlawful discrimination.

32. The Court has powers to make orders under 46PO(4) of the AHRC Act if the Court concerned is satisfied that there has been unlawful discrimination by any respondent.

F. UNLAWFUL DISCRIMINATION

33. At all material times, by providing access to and use of the Giggle App and providing services in connection with the use of the Giggle App, the First and Second Respondents were providing services and making a facility available within the meaning of section 22 of the SDA.

Section 5B of the SDA

34. The First Respondent on instruction of or at the will of the Second Respondent imposed a condition that to be allowed Ordinary Access to the Giggle App, a user must be either:

    a. be a cisgendered female; or

    b. be determined as having cisgendered physical characteristics by the Second Respondent on review of a photograph provided during the Application Process.

    (**Imposed Condition**)

35. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her gender identity, within the meaning of section 5B(1) of the SDA, by:

    a. using the Imposed Condition;

    b. excluding her from using and accessing the Giggle App which was otherwise available to cisgender women; and

    c. not responding to the Applicant's requests for access.

36. In the premises, the Applicant was treated less favourably than cisgender women.

37. The First and/or Second Respondent treated the Applicant less favourably than cisgender women because the Applicant is a transgender woman.

38. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her gender identity, within the meaning of section 5B(2) of the SDA, by the Imposed Condition, which has disadvantaged and is likely to continue to disadvantage transgender women because:

    a. they will not be able to gain Ordinary Access to the Giggle App; and

    b. they are vulnerable to disparaging conclusions and exclusion based on their appearance.

39. Unlike transgender women, cisgender women:

    a. would not have had their access to the Giggle App restricted or physical characteristics questioned by the First and/or Second Respondent; and

b. the First and/or Second Respondent would have engaged with cisgender women and responded to their queries regarding access to the Giggle App.

Section 5C of the SDA

40. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her intersex status, within the meaning of section 5C(1) of the SDA, by treating the Applicant less favourably than women who are not of intersex status by:

a. using the Imposed Condition;

b. excluding her from using and accessing the Giggle App which was otherwise available to women without intersex status; and

c. not responding to the Applicant's requests for access.

41. The First and/or Second Respondent treated the Applicant less favourably than women without intersex status because of the Applicant's intersex status.

42. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her intersex status, within the meaning of section 5C(2) of the SDA, by the Imposed Condition, which has disadvantaged and is likely to continue to disadvantage intersex women because:

a. they will not be able to gain Ordinary Access to the Giggle App; and

b. they are vulnerable to disparaging conclusions and exclusion based on their appearance.

43. Women without intersex status:

a. would not have had their access to the Giggle App restricted or physical characteristics questioned by the First and Second Respondents; and

b. the First and/or Second Respondent would have engaged with women without intersex status and responded to their queries regarding access to the Giggle App.

Section 105 of the SDA

44. Further and alternatively, the Second Respondent, as the controlling mind of the First Respondent: instructed, induced, aided or permitted the acts of the First Respondent in breach of section 22 of the SDA.

45. Pursuant to section 105 of the SDA, the Second Respondent is liable for the actions of the First Respondent in breaching section 22 of the SDA.

G. LOSS AND DAMAGE

46. The Applicant has suffered significant distress, hurt and humiliation by reason of the unlawful discriminatory conduct, within the meaning of sections 5C and 5B, of the First and Second Respondent in breach of section 22 of the SDA.

47. The Applicant's damages have been aggravated by the Second Respondent's public vilification of her, the First and Second Respondent's refusal to apologise, and the First and Second Respondent's refusal to engage in the Australian Human Rights Commission conciliation process provided for under the AHRC Act.

Particulars

Particulars will be provided by way of affidavit evidence.

H. REMEDIES AND DECLARATIONS

48. The Applicant asks the Court for the following relief under section 21 of the *Federal Court of Australia Act* and section 46PO(4) of the AHRC Act:

a. declarations that the First Respondent contravened section 22 of the SDA;

b. declarations that the Second Respondent contravened section 22 of SDA;

c. general damages;

d. aggravated damages;

e. a published written apology from the First and Second Respondent;

f. an order that the First Respondent to must allow the Applicant the same access and use of the Giggle App and the same service delivery in relation to Giggle App, as is provided to other female users upon the First Respondent's usual terms of trade.

Date: 24 March 2023

Barry Nilsson

Signed by Barry Nilsson Lawyers
Lawyer for the Applicant

This pleading was prepared by Georgina Costello KC, Briana Goding, Elodie Nadon and Tinashe Makamure, lawyer.

Certificate of lawyer

I Tinashe Makamure certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 24 March 2023

Signed by Tinashe Makamure
Lawyer for the Applicant

Schedule

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights Division

Respondents

Second Respondent: **SALLY GROVER**

Date: 24 March 2023

NOTICE OF FILING

Details of Filing

Document Lodged:	Defence - Form 33 - Rule 16.32
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	6/04/2023 7:59:31 PM AEST
Date Accepted for Filing:	6/04/2023 7:59:33 PM AEST
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 33
Rule 16.32

Defence

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017) and another

First Respondent

SALLY GROVER

Second Respondent

A. THE PARTIES

1. The Respondents do not know and cannot admit whether the Applicant is a natural person capable of being sued in the name "Roxanne Tickle".

2. In response to paragraph 2 of the Statement of Claim, the Respondents:

    a. admit subparagraph 2(a);

    b. deny subparagraph 2(b); and

    c. deny subparagraph 2(c);

3. In response to paragraph 3 of the Statement of Claim, the Respondents:

    a. admit subparagraph 3(a);

Filed on behalf of (name & role of party) The First and Second Respondents
Prepared by (name of person/lawyer) Alexander Rashidi
Law firm (if applicable) Alexander Rashidi Lawyers
Tel (07) 2139 0100 Fax
Email alex.r@rashidi.com.au
Address for service (include state and postcode) PO Box 12781, George St QLD 4003

[Form approved 01/08/2011]

b. admit subparagraph 3(b); and

c. admit subparagraph 3(c);

d. deny subparagraph 3(d);

e. admit subparagraph 3(e);

f. admit subparagraph 3(f); and

g. admit subparagraph 3(g);

4. The Respondents admit paragraph 4 of the Statement of Claim but say that the Giggle app is no longer operational and has not been since August 2022.

5. The Respondents admit paragraph 5 but say that the platform was a special measure intended to achieve equality for the purposes of s 7D of the *Sex Discrimination Act 1984* (Cth) (**SDA**).

B. THE APPLICANT'S GENDER

6. The Respondents deny paragraph 6.

7. In response to paragraph 7, the Respondents:

a. deny subparagraph 7 (a); and

b. do not know and cannot admit subparagraph 9(b), and say further that they cannot plead to the paragraph by reason of the use of the vague and imprecise word "gone".

8. In response to paragraph 8, the Respondents do not know and cannot admit what surgery, if any, the Applicant underwent and otherwise deny the paragraph.

9. The Respondents do not know and cannot admit paragraph 9.

10. The Respondents deny paragraph 10.

11. The Respondents deny paragraph 11.

C. THE GIGGLE APP

12. The Respondents admit paragraph 12.

13. The Respondents admit paragraph 13.

14. The Respondents admit paragraph 14 save to say that the by the use of the word "woman" the Respondents understand the Applicant to be referring to an adult female human.

15. The Respondents denies paragraph 15.

16. The Respondents admit paragraph 16 save to say that the by the use of the word "woman" the Respondents understand the Applicant to be referring to an adult female human.

17. The Respondents admit paragraph 17.

18. The Respondents admit paragraph 18.

19. The Respondents denies paragraph 19.

D. APPLICANT'S ACCESS AND USE OF THE GIGGLE APP

20. The Respondents do not know and cannot admit paragraph 20.

21. The Respondents admit that the AI undertook the Assessment Process and the Applicant was granted Ordinary Access to the platform but otherwise deny the paragraph.

22. The Respondents say that the Applicant joined the App in February 2021, but did not make any connections or engage in any conversations on the App, say that the Applicant was removed from the App in September 2021, and otherwise do not know and cannot admit paragraph 22.

23. The Respondents deny paragraph 23 and say that the Applicant was removed from using the App because the Applicant is an adult human male.

24. The Respondents deny paragraph 24.

25. In response to paragraph 25, the Respondents say that the Applicant was removed from the platform because the Applicant is an adult male human and otherwise deny the paragraph.

26. The Respondents deny paragraph 26.

27. The Respondents do not know and cannot admit paragraph 27.

28. The Respondents do not know and cannot admit paragraph 28 but does not have a record of any emails as alleged.

29. In the premises of paragraph 26 – 28 herein, the Respondents deny paragraph 29.

E. TERMINATION OF THE COMPLAINT BY AUSTRALIAN HUMAN RIGHTS COMMISSION

30. The Respondents admit paragraph 30.

31. In response to paragraph 31 the Respondents:

    a. admit that the Applicant is a "affected person" as therein in pleaded, but

    b. deny the paragraph by reason of the fact that the Applicant commenced and discontinued proceedings further to the matters pleaded at paragraph30 of the Statement of Claim in the Federal Circuit Court in proceeding no SYG808/ 2022 which precludes the making of a second application to this Court.

32. The Respondents deny paragraph 32.

F. UNLAWFUL DISCRIMINATION

33. The Respondents admit paragraph 33.

34. The Respondents deny paragraphs 34 - 45.

G. LOSS AND DAMAGE

35. The Respondents deny paragraphs 46 - 47.

H. REMEDIES AND DECLARATIONS

36. The Respondents deny paragraphs 48.

IN FURTHER ANSWER TO THE STATEMENT OF CLAIM:

37. Sections 5B and 5C of the SDA are amendments made to the SDA by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth), and are constitutionally invalid.

Particulars

a. The constitutional basis for the SDA is s 51(xxix) to implement Convention on the Elimination of Discrimination Against Women (**CEDAW**). To be constitutionally valid, the proposed legislation must implement an international obligation or secure a benefit under a treaty in a manner which is appropriate and adapted to implementing the treaty. Discrimination on the basis of gender identity or intersex status is not the subject of a specific treaty like CEDAW and nor could it plausibly be said that by enacting antidiscrimination provisions concerning gender identity or intersex status, the Parliament is in some way giving effect to a Convention or treaty. It is doubtful that the provision could be validly enacted pursuant to the external affairs power by reference to isolated Articles of the international instruments.

b. Giggle is not a "trading and financial" corporation within the meaning of s 51 (xx) of the Constitution.

c. Section 51(v) of the Constitution is not appropriately engaged as a head of legislative power.

Date: 6 April 2023

A Rashidi

Signed by Alexander Rashidi
Lawyer for the Respondents

This pleading was prepared by B.K. Nolan of Counsel.

Certificate of lawyer

I Alexander Rashidi certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

(a) each allegation in the pleading; and

(b) each denial in the pleading; and

(c) each non admission in the pleading.

Date: 6 April 2023

A Rashidi

Signed by Alexander Rashidi
Lawyer for the Respondents

NOTICE OF FILING

Details of Filing

Document Lodged:	Statement of Claim - Form 17 - Rule 8.06(1)(a)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	4/05/2023 2:35:37 PM AEST
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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 17
Rule 8.05(1)(a)

Amended Statement of claim

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

Roxanne Tickle

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule

First Respondent

A. THE PARTIES

1. The Applicant, Roxanne Tickle, is a natural person who can sue and be sued in her own name.

2. The First Respondent, Giggle for Girls Pty Ltd (ABN 79 632 152 017):

   a. is an Australian proprietary company, limited by shares that is wholly owned by and operated through a holding company called Wadd Holdings Pty Ltd (ABN 66 632 151 154);

   b. is a trading corporation; and

   c. is subject to the *Sex Discrimination Act 1984* (Cth) (**SDA**) including by reason of section 9(11), (12), (13) and (21).

3. The Second Respondent, Sally Grover:

   a. is a natural person capable of suing and being sued;

   b. is the sole director and Chief Executive Officer of the First Respondent;

   c. at all material times, was the controlling mind of the First Respondent;

   d. as an officer of the First Respondent, is a person to whom the SDA applies for the purpose of section 9(11) and (13) of the SDA;

Filed on behalf of (name & role of party) The Applicant
Prepared by (name of person/lawyer) G A Costello KC and Tinashe Makamure
Law firm (if applicable) Barry Nilsson Lawyers
Tel 03 9909 6365 Fax
Email Tinashe.Makamure@bnlaw.com.au / Corrina.Dowling@bnlaw.com.au
Address for service Level 6, 600 Bourke Street, Melbourne, VIC 3000

e. uses the social media platform, Twitter where she is identified by the username "Sall Grover";

f. uses a "Twitter handle" "*@salltweets*"; and

g. describes herself as the *"Founder & CEO of Giggle, a female social network".*

4. The First Respondent owns and operates the Giggle App.

5. The Giggle App:

a. is a digital application that can be downloaded for use on various electronic devices including mobile phones and tablets called 'Giggle'; and

b. is a service, in so far as it relates to entertainment and/or reaction, and/or an available facility for the purposes of section 22 of the SDA.

B. THE APPLICANT'S GENDER

6. The Applicant is a woman.

7. Since on or around 2017 the Applicant has:

a. presented her physical appearance to be female; and

b. ~~gone by~~used the female name of 'Roxanne Tickle'.

8. The Applicant underwent gender affirming surgery in October 2019 by which her gender as a woman was affirmed.

9. The Applicant's birth certificate issued by the Queensland Registry of Births, Deaths and Marriages In or around January 2020 states that the Applicant is female.

10. In the circumstances that the Applicant was assigned male gender at birth and transitioned to female gender as set out above:

a. the Applicant's gender-identity is female~~; and~~

~~b. the Applicant's intersex status means she has physical, hormonal and/or genetic features that are a combination of female and male.~~

11. The Applicant is a person protected from being unlawfully discriminated against because of her:

~~a.~~ perceived gender identity as a transgender person~~; and~~

~~b. intersex status~~

within the meaning of section 4 of the SDA.

C. THE GIGGLE APP

12. The Giggle App is described on both the Google Play Store and the App Store (**Stores**) as follows:

> *"Made for Women by Women. Connect on Giggle about the latest Issues, politics, gossip, news and more. Promote your business and or yourself, find accomodation [sic] and roommates, connect privately to discuss your most intimate thoughts – all with mutual consent – and without unwanted interruptions and misogynistic abuse."*

13. To use and access the Giggle App, users are required to download it, then provide information, including a self-taken photograph of their face (a 'selfie') and upload it to the platform (**Application Process**).

14. Once uploaded, the 'selfie' is assessed by third-party artificial intelligence (**AI**) software, that determines whether the aspiring user is a woman (**Assessment Process**).

15. The AI software used in the Assessment Process is configured at the direction of the First and Second Defendants.

16. If the AI accepts the 'selfie' as that of a woman, the user is provided full ordinary access to the platform through an individualised logon facilitated by a personal username and confidential password (**Ordinary Access**).

17. Decisions made by the AI software to either accept or reject a person onto the Giggle App can be manually overridden by a person with the appropriate controls of the platform (**Override Powers**).

18. At all material times, the Second Respondent controlled the Override Powers on behalf of the First Defendant.

19. The Giggle App has a range of accessibilities that vary from those not requiring payment to those that require payment, with the highest level of access being called "Premium".

D. APPLICANT'S ACCESS AND USE OF THE GIGGLE APP

20. In or around February 2021, the Applicant downloaded the Giggle App to her mobile device and completed the Application Process.

21. The AI undertook the Assessment Process and found correctly that the Applicant is a woman and so granted her Ordinary Access to the platform.

22. Between February 2021 and September 2021, the Applicant enjoyed Ordinary Access to the Giggle App which included allowing her to post content, read content posted by other users and leave comments on posts.

23. In or around September 2021, the Second Respondent used the Override Powers to restrict the Applicant's access to the Giggle App (**Restricted Access**)

24. The First Respondent provided Restricted Access because the Second Respondent treated the Applicant as if she was not a woman.

25. In or around late September 2021, the Applicant logged onto the Giggle App but found that she no longer had Ordinary Access in that she could no longer post content, read, or comment on content posted by other users because of the Restricted Access.

26. At or around the same time, the Applicant attempted to purchase the Premium features available from the Giggle App but received a "User Blocked" message because of the Restricted Access.

27. In or around late September 2021, the Applicant attempted to contact the First Respondent through a contact form on the Giggle App to raise the issue (**First Attempted Contact**). The Applicant did not receive a response to her First Attempted Contact.

28. In October 2021, the Applicant sent more than six emails to the First Respondent regarding the Restricted Access (**Further Attempted Contact**).

Particulars

i. The Applicant attempted to contact the First Respondent through the contact form on the Giggle App.

ii. The Applicant further attempted to contact the First Respondent through a general email address that was available on the First Respondent's website.

iii. The Applicant also tried to contact the First Respondent by telephone but was unsuccessful.

29. The First and Second Respondent did not provide any substantive response to the Applicant.

E. TERMINATION OF COMPLAINT BY AUSTRALIAN HUMAN RIGHTS COMMISSION

30. By notice of termination dated 5 April 2022 given under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (**AHRC Act**), the Australian Human Rights Commission terminated the Applicant's complaint alleging unlawful discrimination by the First and Second Respondent.

31. The Applicant is an "affected person" under section 46PO(1) of the AHRC Act, and by reason of the termination of her complaint as alleged in paragraph 31, is entitled to make an application to the Federal Court of Australia alleging unlawful discrimination.

32. The Court has powers to make orders under 46PO(4) of the AHRC Act if the Court concerned is satisfied that there has been unlawful discrimination by any respondent.

F. UNLAWFUL DISCRIMINATION

33. At all material times, by providing access to and use of the Giggle App and providing services in connection with the use of the Giggle App, the First and Second Respondents were providing services and making a facility available within the meaning of section 22 of the SDA.

Section 5B of the SDA

34. The First Respondent on instruction of or at the will of the Second Respondent imposed a condition that to be allowed Ordinary Access to the Giggle App, a user must be either:

    a. be a cisgendered female; or

    b. be determined as having cisgendered physical characteristics by the Second Respondent on review of a photograph provided during the Application Process.

    (**Imposed Condition**)

35. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her gender identity, within the meaning of section 5B(1) of the SDA, by:

    a. using the Imposed Condition;

    b. excluding her from using and accessing the Giggle App which was otherwise available to cisgender women; and

    c. not responding to the Applicant's requests for access.

36. In the premises, the Applicant was treated less favourably than cisgender women.

37. The First and/or Second Respondent treated the Applicant less favourably than cisgender women because the Applicant is a transgender woman.

38. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her gender identity, within the meaning of section 5B(2) of the SDA, by the Imposed Condition, which has disadvantaged and is likely to continue to disadvantage transgender women because:

    a. they will not be able to gain Ordinary Access to the Giggle App; and

    b. they are vulnerable to disparaging conclusions and exclusion based on their appearance.

39. Unlike transgender women, cisgender women:

    a. would not have had their access to the Giggle App restricted or physical characteristics questioned by the First and/or Second Respondent; and

b. the First and/or Second Respondent would have engaged with cisgender women and responded to their queries regarding access to the Giggle App.

~~*Section 5C of the SDA*~~

~~40. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her intersex status, within the meaning of section 5C(1) of the SDA, by treating the Applicant less favourably than women who are not of intersex status by:~~

~~a. using the Imposed Condition;~~

~~b. excluding her from using and accessing the Giggle App which was otherwise available to women without intersex status; and~~

~~c. not responding to the Applicant's requests for access.~~

~~41. The First and/or Second Respondent treated the Applicant less favourably than women without intersex status because of the Applicant's intersex status.~~

~~42. In breach of section 22 of the SDA, the First and/or Second Respondent discriminated against the Applicant on the basis of her intersex status, within the meaning of section 5C(2) of the SDA, by the Imposed Condition, which has disadvantaged and is likely to continue to disadvantage intersex women because:~~

~~a. they will not be able to gain Ordinary Access to the Giggle App; and~~

~~b. they are vulnerable to disparaging conclusions and exclusion based on their appearance.~~

~~43. Women without intersex status:~~

~~a. would not have had their access to the Giggle App restricted or physical characteristics questioned by the First and Second Respondents; and~~

~~b. the First and/or Second Respondent would have engaged with women without intersex status and responded to their queries regarding access to the Giggle App.~~

Section 105 of the SDA

~~44.~~40. Further and alternatively, the Second Respondent, as the controlling mind of the First Respondent: instructed, induced, aided or permitted the acts of the First Respondent in breach of section 22 of the SDA.

~~45.~~41. Pursuant to section 105 of the SDA, the Second Respondent is liable for the actions of the First Respondent in breaching section 22 of the SDA.

G. LOSS AND DAMAGE

~~46.~~42. The Applicant has suffered significant distress, hurt and humiliation by reason of the unlawful discriminatory conduct, within the meaning of sections 5C and 5B, of the First and Second Respondent in breach of section 22 of the SDA.

~~47.~~43. The Applicant's damages have been aggravated by the Second Respondent's public vilification of her, the First and Second Respondent's refusal to apologise, and the First and Second Respondent's refusal to engage in the Australian Human Rights Commission conciliation process provided for under the AHRC Act.

Particulars

Particulars will be provided by way of affidavit evidence.

H. REMEDIES AND DECLARATIONS

~~48.~~44. The Applicant asks the Court for the following relief under section 21 of the *Federal Court of Australia Act* and section 46PO(4) of the AHRC Act:

a. declarations that the First Respondent contravened section 22 of the SDA;

b. declarations that the Second Respondent contravened section 22 of SDA;

c. general damages;

d. aggravated damages;

e. a published written apology from the First and Second Respondent;

f. an order that the First Respondent to must allow the Applicant the same access and use of the Giggle App and the same service delivery in relation to Giggle App, as is provided to other female users upon the First Respondent's usual terms of trade.

Date: ~~24 March 2023~~14 April 2023

Signed by Barry Nilsson Lawyers
Lawyer for the Applicant

This pleading was prepared by Georgina Costello KC, Briana Goding, Elodie Nadon and Tinashe Makamure, lawyer.

Certificate of lawyer

I Tinashe Makamure certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: ~~24 March 2023~~14 April 2023

Signed by Tinashe Makamure
Lawyer for the Applicant

Schedule

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights Division

Respondents

Second Respondent: **SALLY GROVER**

Date: ~~24 March 2023~~ 14 April 2023

NOTICE OF FILING

Details of Filing

Document Lodged:	Notice of a Constitutional Matter under s78B Judiciary Act 1903 - Form 18 - Rule 8.11(2)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	1/07/2023 8:31:04 AM AEST
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File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 18
Rule 8.11(2)

AMENDED Notice of a Constitutional matter under section 78B of the Judiciary Act 1903

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 AND ANOTHER

Respondents

The Respondents give notice that the proceeding involves a matter arising under the Constitution or involving its interpretation within the meaning of section 78B of the *Judiciary Act 1903*.

Nature of Constitutional matter

The Respondents apprehend that the matter as framed by the Originating Application filed in the proceedings on 22 December 2022[1] and substantiated by the Amended Statement of Claim filed on 4 May 2023 gives rise to the questions of whether: ~~a~~

(a) s 5B ~~and 5C~~ of the *Sex Discrimination Act 1984* (Cth) (**SDA**) ~~are~~ is beyond the legislative power of the Commonwealth and ultra vires; and or ~~.~~

(b) Part 4 of the *Births, Deaths and Marriages Registration Act 2003* (Qld) (**BDMRA**) and in particular s 24(1) of the BDRMA, alters, impairs or detracts from the operation of ss 5, 5B, 7B, 7D and 22 of the SDA in a manner impermissibly inconsistent with the SDA, and is thereby inoperative, by reason of s 109 the Constitution.

[1] Annexure A hereto is the Originating Application and Amended Statement of Claim filed in the proceedings on 22 December 2022, and ~~24 March 2023~~4 May 2023, respectively

Filed on behalf of (name & role of party) The Respondents
Prepared by (name of person/lawyer) Alexander Rashidi
Law firm (if applicable) Alexander Rashidi Lawyers
Tel (07) 2139 0100 Fax
Email alex.r@rashidi.com.au
Address for service (include state and postcode) PO Box 12781, George St QLD 4003

[Form approved 01/08/2011]

Facts showing that section 78B Judiciary Act 1903 applies

1. The Applicant is a natal male who asserts a gender identity of a "~~woman~~female" and a personhood protected from being unlawfully discriminated against because of a "***perceived*** gender identity as a transgender person." [emphasis added].

2. The Applicant was born in the state of Queensland and has had been issued with a birth certificate, ~~the Respondents apprehend~~ pursuant to Part ~~3~~ 4 of the *Births, Deaths and Marriages, Registration Act 2003* (~~NSW~~Qld) which records the Applicant's sex as "female".

3. The First Respondent was the provider of a digital application styled "Giggle for Girls" (**Giggle**) which is marketed as a digital platform exclusively for females as a "safe space". The CEO of the First Respondent is the Second Respondent.

4. Giggle is a special measure intended to achieve equality substantive equality between men and women for the purposes of section 7D of the SDA.

5. Giggle is not a "trading corporation" for the purposes of s 51(xx) of the Constitution.

6. Giggle is no longer operational.

7. At the time when Giggle was operational, to access it, a user was required to provide a self-taken photograph, referred to as a "selfie" and upload it to the application. The purpose of this was to ensure that the proposed user was female. An artificial intelligence feature was used to make this determination in the first instance.

8. The Applicant was originally granted access to the Giggle ~~website~~ App based on a selfie uploaded.

9. The Applicant's access was removed following a visual inspection by the Second Respondent for and on behalf of Giggle, on the basis that the Applicant had the characteristics that are pertain generally to persons of the male sex or that are generally imputed to persons of the male sex.

10. The Applicant alleges that this is conduct which amounts to discrimination on the ground of gender identity for the purposes of section 5B of the SDA ~~and or discrimination on the ground of intersex status for the purposes of section 5C of the SDA~~. By reason of the allegation that access to the Giggle App could only be granted to a "cisgendered female" or a person "determined as having cisgendered physical characteristics during the Application Process" this is alleged to be in breach of s 22 of the SDA on the grounds of gender identity because the Applicant was treated less favourably than cisgender women, viz. biological females as opposed to "females" for the purposes of s 24 of the BDMRA, and thereby was discriminated against by the Respondents on the basis of (perceived or real) "gender identity" within the meaning of s 5B of the SDA.

11. Sections 5B ~~and 5C~~ of the SDA are amendments made to the SDA by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth).

12. The federal Parliament has very limited constitutional powers to enact laws concerning discrimination. The constitutional basis for the SDA is s 51(xxix) to implement Convention on the Elimination of Discrimination Against Women (**CEDAW**). To be constitutionally valid, the proposed legislation must implement an international obligation or secure a benefit under a treaty in a manner which is appropriate and adapted to implementing the treaty. Discrimination on the basis of gender identity or intersex status is not the subject of a specific treaty like CEDAW and nor could it plausibly be said that by enacting antidiscrimination provisions concerning gender identity or intersex status, the Parliament is in some way giving effect to a Convention or treaty. It is doubtful that the provision could be validly enacted pursuant to the external affairs power by reference to a isolated Articles of the international instruments[2].

13. Otherwise, Giggle is not a "trading and financial" corporation within the meaning of s 51 (xx). Likewise, the Respondents will contend that section 51(v) of the Constitution is not appropriately engaged.

14. Accordingly, the Respondents will contend that the provisions inserted into the SDA by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity And Intersex Status) Act* 2013 are invalid.

15. Further, the Respondents will contend that the legal construct of "female" that emerges from s 24 of the BDMRA directly clashes with the operation and or applies to a matter that is comprehensively regulated by and or applies, in this particular case, inconsistently with ss 5, 5B, 7B, 7D and 22 of SDA or their application.

Date: ~~5 April 2023~~30 June 2023

A. Rashidi

Signed by Alexander Rashidi
Lawyer for the Respondents

[2] Explanatory Memorandums to the Sex Discrimination Amendment (Sexual Orientation, Gender Identity And Intersex Status) Bill 2013

NOTICE OF FILING

Details of Filing

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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

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The date of the filing of the document is determined pursuant to the Court's Rules.

FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: GENERAL

NO. NSD 1148/2022

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR

Respondents

SUBMISSIONS OF THE SEX DISCRIMINATION COMMISSIONER

A. OVERVIEW

1. By orders made on 16 June and 8 August 2023 the Sex Discrimination Commissioner (**Commissioner**) was granted leave to appear as amicus curiae in these proceedings pursuant to s 46PV of the *Australian Human Rights Commission Act 1986* (Cth) to make submissions on the following issues:

   1.1. the construction, meaning and scope of provisions of the *Sex Discrimination Act 1984* (Cth) (**the SDA**) dealing with discrimination on the grounds of sex and gender identity;

   1.2. the construction, meaning and scope of provisions of the SDA dealing with special measures;

   1.3. the constitutional validity of the amendments to the SDA made by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth) (the **Amending Act**). Based on the Respondents' amended notice under s 78B of the *Judiciary Act 1903* (Cth) dated 30 June 2023 (**Amended s 78B Notice**), the Commissioner understands this issue is limited to the validity of s 5B in its application to s 22 of the SDA; and

   1.4. whether s 24[1] of the *Births, Deaths and Marriages Registration Act 2003* (Qld) (**BDMR Act**) is inconsistent with ss 5, 5B, 7B, 7D and 22 of the SDA within s 109 of the *Constitution*.

[1] While the Amended s 78B Notice refers to s 24(1), that only applies where a person has had the reassignment of their sex registered under a "corresponding law". Since the Applicant claims that her amended birth certificate was issued by the Queensland registry (ASOC [9]), it appears that she may have had the reassignment of her sex noted in the Queensland register and that the Respondents' challenge is really to s 24(4).

2. The Commissioner's role is limited to assisting the Court on those questions of statutory construction and constitutional validity. The Commissioner makes no submission as to whether the Respondents discriminated against the Applicant in the manner alleged.

3. The High Court has repeatedly cautioned that constitutional questions should not be decided unless there exists a state of facts which makes it necessary to do so in order to do justice in a given case and determine the rights of the parties.[2] The result is that:

   3.1. This Court may take the view that the merits of the Applicant's claim should be determined prior to the constitutional issues,[3] because if the claim is dismissed on its merits there will be no need to determine the validity of s 5B of the SDA.

   3.2. Further, in circumstances where the Applicant alleges a breach of s 22 of the SDA only, the validity of s 5B would only arise in its application to s 22 (not in relation to the other forms of discrimination prohibited in Part II, which may be supported by other heads of power under s 51).

4. The Commissioner submits, in summary, that:

   4.1. On the proper construction of ss 5 and 5B, the Applicant's claim is properly characterised as a claim of gender identity discrimination under s 5B.

   4.2. Even if the Giggle App were a "special measure" within s 7D(1)(a), it could still constitute discrimination within s 5B.

   4.3. Section 5B and s 22 are supported by s 51(xxix) and/or s 51(xx) of the *Constitution*. There is no inconsistency between s 24 of the BDMR Act and the SDA.

B. THE NATURE OF THE DISPUTE

5. The Amended Statement of Claim filed on 4 May 2023 (**ASOC**) pleads that the Applicant was assigned a male gender at birth but has since transitioned to a female gender: at [10]. It is pleaded that since 2017 the Applicant has presented her physical appearance as female and gone by the female name "Roxanne Tickle"; in October 2019 she underwent gender affirming surgery by which her gender as a woman was affirmed; and in January 2020 she was issued a birth certificate by the Queensland Registry of Births, Deaths and Marriages stating that she is female: [7]-[9]. The Applicant pleads that her

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[2] See eg *Farm Transparency International Ltd v New South Wales* (2022) 96 ALJR 655, at [20]-[21] (Kiefel CJ and Keane J), [117] (Gordon J); *Mineralogy Pty Ltd v Western Australia* (2021) 274 CLR 219, at 248 [57]-[59] (Kiefel CJ, Gageler, Keane, Gordon, Steward and Gleeson JJ), 259 [99] (Edelman J); *Knight v Victoria* (2017) 261 CLR 306, at 324 [32].

[3] Or at least prior to the issues raised under s 51 of the *Constitution*. The Respondents may contend that it is necessary to decide the s 109 issue, regarding s 24 of the BDMR Act, because whether or not that provision is operative may inform the ordinary meaning of "sex" in s 5 of the SDA: see further at [20]-[22] below.

gender-identity is female, and that she is a person protected from being unlawfully discriminated against because of her perceived gender-identity as a transgender person: [10]-[11]. All of those matters are either denied or not admitted by the Respondents.

6. The Applicant alleges that the Respondents breached s 22 of the SDA by discriminating against her on the ground of her gender identity. It is alleged that in around February 2021 the Applicant was granted ordinary access to the Giggle App (which is described on the Google Play store and App store as "made for women by women"), but that in September 2021 the Second Respondent decided to limit her access: ASOC [20]-[23]. The Applicant alleges that the First Respondent, on the instruction or at the will of the Second Respondent, imposed a condition that to be allowed ordinary access to the Giggle App, a user must either (ASOC [34]):

   6.1. be a cisgendered female;[4] or

   6.2. be determined as having cisgendered physical characteristics by the Second Respondent on review of a photograph provided during the application process

   (together, the **Imposed Condition**).

7. The Applicant alleges that, in breach of s 22, the First and/or Second Respondent discriminated against the Applicant by imposing the Imposed Condition; excluding the Applicant from using and accessing the Giggle App which was otherwise available to cisgender women; and not responding to the Applicant's request for access: ASOC [35]. It is alleged that as a result the Applicant was treated less favourably than cisgender women because the Applicant is a transgender woman: ASOC [37]. That is a claim of direct discrimination under s 5B(1). A claim of indirect discrimination under s 5B(2) is also made at ASOC [38].

8. The Respondents' case, in summary, is that the Applicant was granted ordinary access to the Giggle App via the artificial intelligence assessment process (which determined her photograph to represent a woman) and the removal of the Applicant's access took place because, it is alleged, the Applicant is an adult human "male": Defence [21], [25].

9. The Respondents submit inter alia that the claim should be brought as a case of discrimination on the ground of sex under s 5, not as gender identity discrimination under s 5B. The Respondents contend that the claim should fail in any event because s 5B is invalid, and also because the Giggle App was a "special measure" authorised by

[4] The term cisgender refers to a person whose gender corresponds to the sex registered for them at birth, in contrast to a person whose gender does not so correspond: *Tickle v Giggle For Girls Pty Ltd* [2023] FCA 553 at [11].

s 7D(1)(a) for the purpose of achieving substantive equality between men and women.

C. LEGISLATIVE SCHEME

10. The SDA has been amended since the time of the relevant conduct, although the changes are not material to the present case.

11. Section 22(1) provides that it is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's (among other things) gender identity:

    (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;

    (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or

    (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

12. Section 5B sets out the circumstances in which a person discriminates against another person on the ground of gender identity. "Gender identity" is defined in s 4 as follows:

> ***"gender identity"*** *means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth.*

13. Sections 5B and 22 apply subject to ss 7B and 7D. Section 7B directs attention to whether a condition, requirement or practice imposed under s 5B(2) is "reasonable in the circumstances". Relevantly, s 7D(1) provides that a person may take special measures for the purpose of achieving substantive equality between various groups and s 7D(2) provides that a person does not discriminate against another person under ss 5, 5A, 5B, 5C, 6, 7, 7AA or 7A by taking special measures authorised by s 7D(1).

D. CONSTRUCTION OF SECTIONS 5 AND 5B OF THE SDA

14. A threshold question has arisen in the proceedings as to whether the claim is properly brought under s 5B of the SDA as a claim of discrimination on the ground of gender-identity, or whether (as the Respondents contend) the Applicant could only make a claim of discrimination on the ground of sex under s 5 of the Act.

15. It is understood that the Respondents will contend that "sex" refers to biological features which produce a binary position of "man" or "woman", while gender is directed to a

person's individual identity as characterised by how the person signals their gender to others.[5] The Respondents contend that while the ASOC uses the term "cisgender" and "transgender", those terms do not appear in the SDA.[6] The Respondents will submit that s 5 precludes the case being brought under s 5B.[7]

16. The Applicant contends that the claim has not been brought under s 5 because the word "sex" in s 5 encompasses a person whose sex is "female" by virtue of being a transgender woman.[8] The Applicant says that because she is "female", she does not allege that she was discriminated against on the basis of being a "male". Rather, the Applicant alleges the Respondents discriminated against her on the ground that she is a transgender woman, and not a cisgender woman.[9]

17. The above dispute raises the proper construction of the words "sex", "gender identity", and the interaction between ss 5 and 5B.

D.1 Meaning of "sex" in s 5

18. In summary, the Commissioner submits that the word "sex" is not a biological concept referring to whether a person at birth had male or female physical traits. Nor is it a binary concept, limited to the "male" or "female" sex. The word "sex" takes its ordinary meaning, which is informed by how that term is used throughout Australia including in State and Territory legislation (discussed further below). "Sex" can refer to a person being male, female, or another non-binary status. It is also broad enough to encompass the idea that a person's "sex" can be changed.

19. Whether a person is of a particular "sex" for the purposes of the SDA may take into account a range of factors, which may include their biological and physical characteristics, whether they are legally recognised as that sex under State and Territory law, as well as how they present themselves and are socially recognised. However, for the purposes of these proceedings, the Court need not exhaustively identify all the relevant factors, or determine whether any of them is necessary to be a particular "sex". The Court need only conclude that, for a person to be of the female "sex", it is sufficient if that sex is recorded on the person's birth certificate and/or they have undergone gender affirming surgery to affirm their status as female. Although unnecessary to decide in the present case, a person may also be of the female "sex" in other circumstances, eg if they

[5] [2023] FCA 553 at [15].
[6] [2023] FCA 553 at [16].
[7] [2023] FCA 553 at [16].
[8] [2023] FCA 553 at [17].
[9] [2023] FCA 553 at [17].

have undergone hormonal therapy to affirm they are "female" and/or present themselves and are socially recognised as "female", and even if their sex has not been recorded as "female" on any official register.

Text and ordinary meaning

20. The word "sex" is not defined in the Act. It should take its ordinary meaning. That meaning must take into account the way that the term has been used throughout Australia, including in legislation dealing with birth registers.[10]

21. Registration of "sex": All States and Territories have legislation in place that permits a person to change the entry of their sex recorded in the register (or, in Tasmania, to have a gender registered, or, in Western Australia, to have a "recognition certificate" issued).[11] The new sex recorded may be male, female, or (in most jurisdictions) another non-binary descriptor.[12] A person who has changed the entry of their sex recorded in the register (or, in Tasmania, had a gender registered, or, in Western Australia, had a "recognition certificate" issued) is taken, for the purposes of the relevant State or Territory law, to be a person of the changed sex.[13] In Queensland, the law in force at times relevant to this

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[10] See *Secretary, Department of Social Security v SRA* (1993) 43 FCR 299 (***SRA***) at 316-317 (Lockhart J, with whom Heerey J agreed), where his Honour considered foreign and South Australian legislation, recognising the nominated sex of "post-operative transsexuals". See also *Attorney-General for the Commonwealth v 'Kevin and Jennifer'* [2003] FamCA 94; (2003) 172 FLR 300 (***Kevin and Jennifer***) at [348]-[358], where it was noted the trial judge had had regard to statutory recognition of gender reassignment of trans persons, and at [358] the Court concluded that these provisions provide "considerable assistance in determining whether the contemporary everyday meaning of 'man' and 'marriage'" extended to a transgender man. See also at [379].

[11] *Births, Deaths and Marriages Registration Act 1995* (NSW), Part 5A; *Births, Deaths and Marriages Registration Act 1996* (SA), Part 4A; *Births, Deaths and Marriages Registration Act 1999* (Tas), Part 4A; *Births, Deaths and Marriages Registration Act 1996* (Vic), Part 4A; *Gender Reassignment Act 2000* (WA), Part 3; *Births, Deaths and Marriages Registration Act 1997* (ACT), Part 4; *Births, Deaths and Marriages Registration Act 1996* (NT), Part 4A. The Queensland law at the time relevant to the events in this proceeding was the *Births, Deaths and Marriages Registration Act 2003* (Qld), Part 4, which permitted a reassignment of sex to be noted in the register. That position remains in substance under the *Births, Deaths and Marriages Registration Act 2023* (Qld), Part 5, which is yet to commence and will permit a person to alter the record of their sex in the register.

[12] *NSW Registrar of Births, Deaths and Marriages v Norrie* (2014) 250 CLR 490 at [35]; *Births, Deaths and Marriages Registration Act 2023* (Qld), s 39(2)(b) and Sch 2 (definition of "sex descriptor"); Births, Deaths and Marriages Registration Regulations 2011 (SA), reg 7A; *Births, Deaths and Marriages Registration Act 1996* (Vic), s 4(1) (definition of "sex descriptor") and s 30A(2); Births, Deaths and Marriages Registration Regulations 1996 (NT), reg 4A. In Tasmania, a non-binary gender may be registered: *Births, Deaths and Marriages Registration Act 1999* (Tas), s 3A. Western Australia does not appear to permit a non-binary sex description: *Gender Reassignment Act 2000* (WA), s 3 (definitions of "gender characteristics" and "reassignment procedure").

[13] *Births, Deaths and Marriages Registration Act 1995* (NSW), s 32I; *Births, Deaths and Marriages Registration Act 2023* (Qld), s 47; *Births, Deaths and Marriages Registration Act 1996* (SA), s 29U; *Births, Deaths and Marriages Registration Act 1999* (Tas), ss 28C(7) and 28D(2); *Births, Deaths and Marriages Registration Act 1996* (Vic), s 30G; *Gender Reassignment Act 2000* (WA), ss 16 and 18; *Births, Deaths and Marriages Registration Act 1997* (ACT), ss 27(1) and 29D; *Births, Deaths and Marriages Registration Act 1996* (NT), s 28H. In Tasmania, the registration of a gender has the result

proceeding provided that if a reassignment of sex was noted in the register, then the person was a person of the sex as reassigned.[14] That status is preserved under the new Queensland legislation passed in 2023, which is yet to commence.[15]

22. What this State and Territory legislation establishes is that, in its ordinary meaning, the word "sex" encompasses the idea that "sex" is changeable. The fact that a person has been recorded as having a "sex" in the register[16] will be highly relevant in determining whether they are of that "sex" for the purposes of the SDA. It may even be *sufficient* to establish that they are of that "sex" (although, as submitted below, not *necessary*).

23. Gender affirming surgery: At least as early as the 1990s,[17] it has been accepted that "sex" is changeable and that the female "sex" includes a person who has undergone gender affirming surgery to affirm their status as female. That was the conclusion reached by the Full Federal Court in *Secretary, Department of Social Security v SRA* (1993) 43 FCR 299 (***SRA***), where it was held that the words "woman" and "wife" (defined as a "female married person") in the *Social Security Act 1947* (Cth) included a "post-operative transsexual" woman.[18] That conclusion was reached having regard to dictionary definitions of "sex change", medical and legal commentators' recognition of that concept,[19] as well as domestic and foreign legislation and caselaw.[20]

24. In *Attorney-General for the Commonwealth v 'Kevin and Jennifer'* (2003) 172 FLR 300 (***Kevin and Jennifer***) at [374]-[380], the Full Court of the Family Court considered the validity of a declaration made under s 113 of the *Family Law Act 1975* (Cth) that a marriage between 'Kevin' and 'Jennifer' was valid for the purposes of the *Marriage Act 1961* (Cth) (**Marriage Act**). Jennifer was a cisgender woman. Kevin was a trans man who had had gender affirming surgery, and whose birth certificate had been changed to show that he was male.[21] The Full Court confirmed that the term "marriage" in the

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that the person is no longer a person of the sex previously registered (s 28C(7)) and a reference in Tasmanian law to a person's sex is taken to be a reference to that person's registered gender (s 28D(2)).

[14] *Births, Deaths and Marriages Registration Act 2003* (Qld), s 24(4). The Respondents submit that the current legislation is inoperative by virtue of s 109 of the *Constitution* – see further at [84] below.

[15] *Births, Deaths and Marriages Registration Act 2023* (Qld), s 142.

[16] Or, in Tasmania, if they have had that gender registered or, in WA, had a recognition certificate issued.

[17] Or earlier: see *R v Harris* (1988) 17 NSWLR 158 at 193-194 (Mathews J; Street CJ agreeing).

[18] *SRA* (1993) 43 FCR 299 at 304-305 (Black CJ), at 325 (Lockhart J), at 328 (Heerey J agreeing with Black CJ and Lockhart J), cited with approval in *Kevin and Jennifer* (2003) 172 FLR 300 at [211]-[224], [371]-[375]. See also *AB v Registrar of Births, Deaths and Marriages* (2007) 162 FCR 528 at [4] (Black CJ).

[19] *SRA* (1993) 43 FCR 299 at 305 (Black CJ), 313-314, 316 (Lockhart J).

[20] *SRA* (1993) 43 FCR 299 at 317-325 (Lockhart J).

[21] *Kevin and Jennifer* [2001] FamCA 1047 at [29], [34].

Marriage Act described a union between a man and a woman,[22] and that in that context the terms "man" and "woman" took their "ordinary contemporary meaning according to Australian usage".[23] The Full Court approved the finding by the trial judge that this ordinary meaning "includes post-operative transsexuals as men and/or women in accordance with their sexual reassignment",[24] concluding that this was supported by the medical evidence; the weight of international legal developments; the widespread statutory recognition of trans persons as "man" or "woman"; and with "international law and humanity".[25] The Full Court did not appear to treat the fact that Kevin was recorded as "male" on his birth certificate as an being an essential reason for their conclusion.[26]

25. For those reasons, a person is of the female "sex" for the purposes of the SDA if they have had gender affirming surgery affirming their status as female, even if that change in sex is not recorded under the State or Territory legislation described above.

26. No registration or gender-affirming surgery? In *Kevin and Jennifer*, the Full Court left open the question whether it was necessary for a trans person to have gender affirming surgery in order to be recognised as a person of their affirmed sex.[27]

27. Although not necessary to decide here, it may be that there are other ways of demonstrating that a person is of a particular sex.

28. This is supported by the criteria for registering a change in sex under the State and Territory legislation described at [21] above. All jurisdictions other than New South Wales have removed the legislative requirement that a person have a surgical procedure in order to register a change in their sex (or, in Tasmania, to register a gender).[28] Broadly

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[22] This case was decided prior to the introduction of a statutory definition of "marriage" by the *Marriage Amendment Act 2004* (Cth) and prior to the amendment of that definition to refer to the union of two people by the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth).

[23] *Kevin and Jennifer* (2003) 172 FLR 300 at [374]-[375]. For the way in which the trial judge used the term "sex", see [2001] FamCA 1074 at [16].

[24] *Kevin and Jennifer* (2003) 172 FLR 300 at [374]-[375].

[25] *Kevin and Jennifer* (2003) 172 FLR 300 at [379]-[380].

[26] See *Kevin and Jennifer* (2003) 172 FLR 300 at [374]-[378].

[27] *Kevin and Jennifer* (2003) 172 FLR 300 at [382]-[387]. Cf *SRA*, where the idea that "pre-operative male-to-female transsexual", who identified and lived as female, could be considered a "woman" was rejected: *SRA* (1993) 43 FCR 299 at 306 (Black CJ), 326-327 (Lockhart J), 328 (Heerey J agreeing with Black CJ and Lockhart J). However it is submitted that the ordinary meaning of "sex" is now broader than it was in 1993.

[28] This change was brought about by the following legislation: *Births, Deaths and Marriages Registration Act 2023* (Qld) (yet to commence); *Births, Deaths and Marriages Registration (Gender Identity) Amendment Act 2016* (SA); *Justice and Related Legislation (Marriage and Amendments) Act 2019* (Tas); *Births, Deaths and Marriages Registration Amendment Act 2019* (Vic); *Births, Deaths and Marriages Registration Amendment Act 2014* (ACT); *Births, Deaths and Marriages Registration and Other Legislation Amendment Act 2018* (NT). Cf *Births, Deaths and Marriages Registration Act 1995* (NSW), s 32B, which requires a surgical "sex affirmation procedure".

summarised, the requirements for adults now range from requiring a surgical or medical procedure (the latter including hormonal treatment),[29] to requiring appropriate "clinical treatment",[30] to requiring a statutory declaration that the applicant believes that they are, or identifies as, a person of the nominated sex[31] (in some cases with a supporting statement from someone who has known them for 12 months).[32]

Context

29. A broad construction of the word "sex" is supported by other provisions of the SDA and the extrinsic materials for the Amending Act.

30. Sex is not a binary concept: Contrary to the Respondents' submission, "sex" is not a binary concept. The fact that the SDA uses the expression "different sex" (instead of "opposite sex") confirms this. That expression was a deliberate choice. The Amending Act replaced the references to "opposite sex" with "different sex" (including in s 5 dealing with discrimination on the ground of sex).[33] The explanation given for this in the Explanatory Memorandum for the Amending Act (**2013 EM**) was that "sex is not a binary concept"[34] and that the terminology of "different sex" was "consistent with the protection of gender identity and intersex status, which recognises that a person may be, or identify as, neither male nor female".[35]

31. Sex can be changed: More importantly for the present case, the statutory context suggests that a person's sex can be changed.

32. *First*, the definition of "gender identity" in s 4 includes the words "with or without regard to the person's designated sex at birth". If, as the Respondents contend, "sex" simply

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[29] *Gender Reassignment Act 2000* (WA) requires a "reassignment procedure" which can be a "medical or surgical procedure" (ss 14-15). In *AB v Western Australia* (2011) 244 CLR 390 at [32] the High Court confirmed that a medical procedure such as hormonal treatment is sufficient.

[30] *Births, Deaths and Marriages Registration Act 1996* (SA), ss 29H-29K (clinical treatment need not be invasive and can include counselling: s 29H); *Births, Deaths and Marriages Registration Act 1997* (ACT) ss 24-25 (clinical treatment not defined, although the Explanatory Statement for the Births, Deaths and Marriages Registrations Amendment Bill 2013 (ACT), p 5, states that the term was not defined to ensure professional medical judgement was not expanded or impeded and confirms sexual reassignment surgery is no longer required); *Births, Deaths and Marriages Registration Act 1996* (NT), ss 28A-28J (clinical treatment not defined, although the Explanatory Statement for the Births, Deaths and Marriages Registration and Other Legislation Amendment Bill 2018 (NT), p 3, states that the term was not defined to ensure professional medical opinions are not impeded and to recognise that "different types and levels of clinical treatment will be appropriate for different individuals").

[31] In relation to registration of gender, see *Births, Deaths and Marriages Registration Act 1999* (Tas), s 28A, and definition of "gender declaration" in s 3.

[32] *Births, Deaths and Marriages Registration Act 1996* (Vic), s 30A; *Births, Deaths and Marriages Registration Act 2023* (Qld) (yet to commence), s 39.

[33] See Amending Act, items 16, 36, 42, 47.

[34] 2013 EM at [15].

[35] 2013 EM at [25], [27], [61], [65] and [68].

referred to a person's sex determined at birth by reference to biological characteristics, the definition could have simply said "with or without regard to the person's sex". That the legislature chose to specify the sex "designated ... at birth" supports the idea that sex is a broader concept, and may change over the course of a person's lifetime.

33. *Secondly*, the Amending Act repealed the definitions of "man" and "woman" that then existed. Prior to the Amending Act, "man" and "woman" were defined in s 4(1) as follows:

> ***man*** means a member of the male sex irrespective of age.
> ***woman*** means a member of the female sex irrespective of age.

34. The 2013 EM described the reason for this change in the following way (at [18]):[36]

> *These items will repeal the definitions of 'man' and 'woman' from subsection 4(1). To the extent these terms appear in the Act, they will take their ordinary meaning. These definitions are repealed in order to ensure that 'man' and 'woman' are not interpreted so narrowly as to exclude, for example, a transgender woman from accessing protections from discrimination on the basis of other attributes contained in the SDA.*

35. Section 7 of the SDA expressly gives protection to "women" against discrimination on the grounds of a "woman's pregnancy or potential pregnancy". Section 4B defines "potential pregnancy" to include the fact that the woman has expressed a *desire* to become pregnant, or that the woman is *perceived* as being likely to become pregnant. The repeal of the definition of "woman", together with the comments in the 2013 EM, suggest that a trans woman should be able to access protections like this, which in turn confirms that the word "woman" is intended to include a trans woman.

36. *Thirdly,* this interpretation is also consistent with how the concept of "women" has been treated for the purposes of the Convention on the Elimination of all forms of Discrimination Against Women (**CEDAW**): see further at [69]-[71] below. While the word "women" is not defined, the CEDAW Committee's commentaries confirm that "women" include trans women and that States Parties should take steps to ensure their protection.

D.2 Meaning of "gender identity" in s 5B

37. "Gender" is not defined in the Act. It likewise bears its ordinary meaning. It is a different concept to "sex". "Gender" is not determined by biological or physical factors, but instead refers to the way a person identifies as well as the way they present and are recognised

[36] Which can be considered under s 15AB(2)(e) of the *Acts Interpretation Act 1901* (Cth).

within the community.[37]

38. This is confirmed by the words "with or without regard to the person's designated sex at birth" in the definition of "gender identity": s 4. That is, some people may identify as male or female but identify as a different gender to their sex designated at birth.[38] Some people who are gender diverse do not identify as male or female[39] (eg they may identify or present as neither, despite their sex being designated male or female at birth). This may be the case whether or not that person has intersex status.[40]

39. As the definition in s 4 expressly recognises, gender identity is not just limited to a person's gender-related *intrinsic* sense of self that forms part of their social identity. It also includes what the 2013 EM describes at [13] as *outward* social markers: that is, gender identity also includes a person's "gender-related appearance", "gender-related mannerisms" and other "gender-related characteristics".

40. The definition – in specifying that these may be "by way of medical intervention or not" – acknowledges that some people may seek "medical intervention" to achieve certain gender-related characteristics of the sex which conforms with their perception of their gender.[41] These may be surgical procedures to alter their bodies and appearance, or non-surgical procedures such as use of a gonadotrophin releasing hormone analogue (often referred to as "puberty blocking" treatment)[42] or the taking of either oestrogen or testosterone (often referred to as "cross sex" or "gender affirming" hormone treatment).[43] The definition also acknowledges that gender-related appearance and gender-related characteristics might arise otherwise than from medical intervention, for example through the way a person dresses.

41. By including these "outward social markers" as part of gender identity, the legislature was acknowledging that it is "often the discord between a person's gender presentation

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[37] 2013 EM at [13].

[38] 2013 EM at [13].

[39] 2013 EM at [11] and [13]. See also Legal and Constitutional Affairs Legislation Committee, *Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012,* February 2013 (**2013 Senate Report**) at [3.6]-[3.7].

[40] People who are intersex face many of the same issues as people who are gender diverse (2013 EM, p 2). However, a separate ground of "intersex status" was introduced in order to recognise that "whether a person is intersex is a biological characteristic and not an identity" (2013 EM p 2 and at [15]). People who are intersex are provided with protection in s 5C against discrimination on ground of their intersex status. An intersex person may also face discrimination because of their gender identity. Intersex people can have the same range of gender identities as the rest of the community. Some intersex people have a gender identity that is male or female, and some intersex people have a gender identity that is neither male nor female (2013 EM at [38] and [40]).

[41] *AB v Western Australia* (2011) 244 CLR 390 at [1] (the Court).

[42] *Re Kelvin* [2017] FamCAFC 258 at [12].

[43] *Re Kelvin* [2017] FamCAFC 258 at [13] and [20]; *AB v Western Australia* (2011) 244 CLR 390 at [32].

and their identity which is the cause of the discrimination".[44] Thus the protection against gender identity discrimination applies both to discrimination based on how the person identifies themselves and how they are identified by others using these outward markers.

42. For example, a trans woman may say that her gender identity is female, but s 5B(1) would still protect her from direct discrimination on the ground that she was identified by the discriminator as a trans woman and was treated less favourably than a person with a different gender identity as a result. Specifically, a trans woman who identifies as female may face direct discrimination because her gender-related appearance, mannerisms or other gender-related characteristics are not perceived as being ("sufficiently") female. The relevant characteristics of the comparator for the purposes of s 5B(1) ("a person who has a different gender identity", understood as extending to gender-related appearance, mannerisms or other gender-related characteristics) will depend on identifying a person who is similarly placed ("in circumstances that are the same or are not materially different"). In the circumstances described above, the relevant comparator may be a cisgender woman whose gender-related appearance, mannerisms or other gender-related characteristics *are* perceived as being female.

43. This is also consistent with how gender identity discrimination was dealt with in the 2013 EM. In relation to discrimination under s 27, it was said at [63] that it would be unlawful for an employer to ask an applicant of female appearance with a masculine sounding voice for her medical history, but not to ask the same question of other applicants in order to avoid hiring a transgender person.

44. A trans woman may experience indirect discrimination under s 5B(2) if the discriminator imposes a condition which appears to be neutral but that has the effect of disadvantaging persons who have the same gender identity. For example, a human resources policy which does not permit amendments to existing records may disadvantage a trans woman by forcing her to disclose details regarding her trans status to explain discrepancies in the employment records (unless the policy is reasonable in the circumstances: ss 5B(3) and 7B).[45] The person who did the act has the burden of proving that it was reasonable in the circumstances (s 7C). It is open to an applicant to plead a case of direct and indirect discrimination as alternatives, based on the same conduct.[46] However, the proper characterisation of the conduct is a matter for the Court and the same conduct

[44] 2013 EM at [11].

[45] 2013 EM at [34]-[36].

[46] *Sklavos v Australasian College of Dermatologists* (2017) 256 FCR 247 at [16].

ultimately may not amount to both direct and indirect discrimination.[47]

D.3 Purpose

45. For the above reasons, the Respondents' construction of ss 5 and 5B should be rejected. Section 5 does not limit the operation of s 5B as alleged, and the Applicant's claim is capable of being characterised as a claim of gender identity discrimination.

46. That construction better promotes the beneficial purpose of the legislation.[48] As the 2013 EM noted at [11], the definition of "gender identity" was drafted to provide "maximum protection for gender diverse people".[49] There is a general rule of construction that a beneficial or remedial provision is to be given a "fair, large and liberal" interpretation rather than one which is "literal or technical".[50] A beneficial or remedial provision is "one that gives some benefit to a person and thereby remedies some injustice".[51] In particular, where legislation protects or enforces human rights, courts have a "special responsibility to take account of and give effect to the statutory purpose".[52] One of the objects of the Act is "to eliminate, so far as is possible, discrimination against persons on the ground of ... gender identity" in the areas of public life covered by the Act.[53] The Respondents' construction would give an unduly narrow operation to s 5B which would undermine that purpose.

E. CONSTRUCTION OF SECTION 7D (SPECIAL MEASURES)

E.1 General principles regarding s 7D

47. The language of "special measures" comes from art 4 of the CEDAW and should be understood having regard to the context, object and purpose of that Convention.[54] The aim of achieving substantive equality recognises the existence of historical and

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[47] *Waters v Public Transport Corporation* (1991) 173 CLR 349 at 392–393 (Dawson and Toohey JJ), 400 (McHugh J); *Commonwealth Bank v Human Rights and Equal Opportunity Commission* (1997) 80 FCR 78 at 97.

[48] *Acts Interpretation Act 1901* (Cth), s 15AA.

[49] See also 2013 Senate Report at [7.12].

[50] *AB v Western Australia* (2011) 244 CLR 390 at 402 [24] (the Court), citing *IW v City of Perth* (1997) 191 CLR 1 at 12 (Brennan CJ and McHugh J).

[51] *Re McComb* [1999] 3 VR 485 at 490 [22].

[52] *Waters v Public Transport Commission* (1991) 173 CLR 349 at 359 (Mason CJ and Gaudron J). See also *IW v City of Perth* (1997) 191 CLR 1 at 22-23 (Dawson and Gaudron JJ), 58 (Kirby J).

[53] SDA, s 3(b).

[54] *Jacomb v Australian Municipal Administrative Clerical and Services Union* (2004) 140 FCR 149 (***Jacomb***) at [41]-[44]. Note that *Jacomb* was decided at a time when the SDA was expressed to give effect to CEDAW only, whereas it is now expressed to give effect to other relevant international instruments such as the ICCPR: ss 3(e), 4 (definition of "relevant international instrument"), 9(10). As such it is clear that s 7D permits "special measures" to address substantive equality between men and women as well as other groups.

entrenched inequality. Some groups continue to face systemic discrimination and structural barriers to equal participation in public life. To treat groups that are differentially situated as if they were the same can be a form of discrimination.[55] Differential treatment is therefore permissible, in order to achieve "de facto" equality.[56]

48. In order for conduct to qualify as a special measure, it must be done "for the purpose of achieving substantive equality": s 7D(1). In the language of art 4(1) of CEDAW, it must be "aimed at accelerating de facto equality". This requires both:

    48.1. an assessment of whether the subjective intention of the person taking the measure was to achieve substantive equality; and

    48.2. an objective assessment of whether the person taking the measure acted reasonably in assessing the need for the special measure, and of whether the measure has the capacity to achieve the purpose of substantive equality.[57]

49. This interpretation is consistent with general recommendations of the CEDAW Committee made under art 21(1) of CEDAW.[58] The Committee has said that the word "special" means that the measures are designed to serve a specific concrete goal, namely, the achievement of de facto or substantive equality.[59] States parties are obliged to take such measures if they can be shown to be necessary and appropriate in order to accelerate the achievement of that goal.[60] Plans for special measures must be designed, applied and evaluated against the background of the specific nature of the problem that they are intended to overcome.[61] Finally, reporting on special measures should include references to concrete goals and targets, timetables and the reasons for choosing particular measures so that proponents of the measures are accountable for their

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[55] *South West Africa Cases (Second Phase)* [1966] ICJR 6 at 305-306 (Judge Tanaka), quoted with approval in *Gerhardy v Brown* (1985) 159 CLR 70 at 129 (Brennan J); *Street v Queensland Bar Association* (1989) 168 CLR 461 at 512 (Brennan J), 571 (Gaudron J); *Maloney v The Queen* (2013) 252 CLR 168 at [340] (Gageler J).

[56] CEDAW, art 4. See also Committee on the Elimination of All Forms of Discrimination Against Women (**CEDAW Committee**), *General Recommendation No. 25: Article 4, paragraph 1, of the Convention (temporary special measures)* (18 August 2004) at [8]-[10] and [14]. See also *Jacomb* (2004) 140 FCR 149 at [39], citing the relevant extrinsic materials for s 7D, and at [45]-[47], [60].

[57] *Jacomb* (2004) 140 FCR 149 at [34], [61]-[62] and [64]-[65]; cf *Walker v Cormack* (2011) 196 FCR 574 at [29]-[31].

[58] When interpreting the meaning of a treaty, considerable weight should be given to the interpretations adopted by an independent body, such as the CEDAW Committee, established to supervise the application of the treaty: *CRI026 v Republic of Nauru* (2018) 92 ALJR 529 at [22], citing *Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo)* [2010] ICJ Rep 639 at 664 [66].

[59] CEDAW Committee, *General Recommendation No. 25: Article 4, paragraph 1, of the Convention (temporary special measures)* (18 August 2004) at [19] and [21].

[60] *Ibid* at [24].

[61] *Ibid* at [33].

progress.[62] In combination, these requirements indicate that a special measure involves more than simply taking action on a good faith basis with a subjective goal of achieving a particular purpose. There must also be an objective assessment of whether the measure is reasonably necessary to achieve the relevant purpose.[63]

E.2 Meaning of "man" and "woman" in s 7D(1)(a)

50. Section 7D(1)(a) refers to a special measure for the purpose of achieving substantive equality between "men" and "women". A question may arise in this case as to how the word "women" should be construed, and whether it includes transgender women. In that respect, the Commissioner adopts the submissions made above as to the meaning of "sex": just as the female "sex" can include a trans woman, so too can the word "woman".

51. If that be right, that will in turn inform the assessment of whether the Giggle App was truly for the purpose of achieving substantive equality between men and women, in circumstances where a trans woman has been excluded from ordinary access.

E.3 A special measure under s 7D(1)(a) is not discrimination under s 5, but may still be discrimination under s 5B

52. The Respondents contend that the Giggle App was a "special measure" within s 7D(1)(a). If, as submitted above, the Applicant's claim properly falls under s 5B, a question arises as to whether a special measure within s 7D(1)(a) will:

52.1. not amount to discrimination under s 5 (sex) only, with the result that it could still amount to discrimination under any of the other provisions listed in s 7D(2); or

52.2. not amount to discrimination under any of the provisions listed in s 7D(2).

53. The Commissioner submits that the former construction should be preferred. That is consistent with the structure of s 7D. Section 7D(1) contains nine paragraphs setting out nine ways in which a special measure could be framed. Those nine paragraphs correspond to the eight grounds of discrimination individually listed in s 7D(2) (noting that discrimination on the grounds of pregnancy or potential pregnancy, addressed in s 7D(1)(c) and (d), are both covered by s 7 of the Act). For example, s 7D(1)(a) relates to substantive equality between men and women, which corresponds to discrimination on the ground of sex under s 5. Section 7D(1)(aa) relates to substantive equality between people who have different sexual orientations, which corresponds to

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[62] *Ibid* at [36].

[63] See also *Maloney v The Queen* (2013) 252 CLR 168 at [20]-[21] (French CJ), [101]-[102] (Hayne J), [130] (Crennan J), [177] and [180] (Kiefel J), and [358] (Gageler J); contra [241]-[243] (Bell J), addressing special measures under the *Racial Discrimination Act 1975* (Cth).

discrimination on the ground of sexual orientation under s 5A.

54. The construction better promotes the purpose of s 7D. As submitted above, s 7D recognises that, in order to ensure substantive equality between eg men and women, it may be necessary to engage in differential treatment between men and women. The differential treatment between men and women results in a corresponding benefit in terms of achieving substantive equality between men and women. It is appropriate in that context that a special measure within s 7D(1)(a) be protected from claims of unlawful discrimination under s 5. However, a person who aims to achieve substantive equality between men and women should not also be permitted to engage in discrimination against persons with a certain gender identity. Permitting such discrimination, without any corresponding benefit in terms of ensuring substantive equality between persons of different gender identities, undermines the purpose of the SDA as a whole.

55. There is support for this construction in the 2013 EM at [47]. In relation to the insertion of paragraphs (aa), (ab) and (ac) into s 7D(1), it was said:

> *The amendments to section 7D in these items will ensure that special measures can be taken to address the particular needs of people who have different sexual orientations, people who have different gender identities and people who are of intersex status, without producing claims of unlawful discrimination under the new sections 5A, 5B and 5C.*

56. There was no indication that the inclusion of (aa), (ab) or (ac) would avoid claims of unlawful discrimination on the *other* grounds listed in s 7D(2): ss 5, 6, 7, 7AA or 7A.

57. Similarly, when the grounds of "breastfeeding" and "family responsibilities" were inserted into the SDA as ss 7AA and 7A, the relevant Explanatory Memorandum confirmed that the corresponding amendments made to s 7D were to ensure "that special measures can be taken to address the particular needs of persons who are breastfeeding or who have family responsibilities without producing claims of unlawful discrimination under new sections 7AA or 7A".[64] There was no suggestion such special measures would avoid claims of discrimination on the other grounds.

58. In summary, a special measure taken for the purpose of achieving substantive equality between particular groups has the result that the measure is not discrimination on the ground corresponding to those groups. A special measure for the purpose of achieving substantive equality between men and women would not amount to sex discrimination under s 5, but unless it was also a special measure for the purpose of achieving

[64] Explanatory Memorandum, Sex and Age Discrimination Legislation Amendment Bill 2010, at [34].

substantive equality between people of different gender identities, it may still amount to discrimination under s 5B.

F. CONSTITUTIONAL VALIDITY

59. The Respondents' Amended s 78B Notice raises two constitutional questions:

59.1. First, whether s 5B is supported by a head of power under s 51 of the *Constitution*. As submitted above, this issue must be limited to s 5B in its application to s 22 only (not other forms of discrimination prohibited in Part II);

59.2. Secondly, whether s 24 of the BDMR Act is inconsistent with the SDA for the purposes of s 109 of the *Constitution*.

60. Again, the Commissioner has not seen the Respondents' submissions on these issues, and so reserves the right to supplement these submissions orally. Both arguments should be rejected for the following reasons.

F.1 Head of power under s 51 of the Constitution

External affairs power: s 51(xxix)

61. Section 9(10) of the SDA relevantly provides: "The prescribed provisions of Part II ... have effect to the extent that the provisions give effect to a relevant international instrument".

62. The "prescribed provisions of Part II" are defined in s 9(1) as the provisions of Divisions 1 and 2 of Part II (other than ss 19, 26 and 27). They therefore include s 22. The result is that s 22 has effect to the extent that it gives effect to a "relevant international instrument", which is defined in s 4 to include a range of international treaties to which Australia is a party including CEDAW and the International Covenant on Civil and Political Rights (**ICCPR**).

63. Section 9(10) was drawn with a view to the scope of Commonwealth legislative power under s 51(xxix).[65] It is designed to ensure that the relevant provisions only apply to the extent constitutionally permitted under s 51(xxix)[66] (except of course to the extent they are supported by an alternative head of power). As such, the question before the Court

[65] *AB v Registrar of Births, Deaths and Marriages* (2007) 162 FCR 528 at [7] (Black CJ) (in dissent in the result, but not on this issue).

[66] *AB v Registrar of Births, Deaths and Marriages* (2007) 162 FCR 528 at [11] (Black CJ), [76] (Kenny J, with whom Gyles J agreed) (citing *South Pacific Resort Hotels Pty Ltd v Trainor* (2005) 144 FCR 402 at 405-407 per Black CJ and Tamberlin J, with whom Kiefel J agreed); also at [93] (Kenny J).

is primarily one of statutory construction, not constitutional validity:[67] that is, whether s 22 read with s 5B, insofar as it includes gender identity as a ground of discrimination, "gives effect" to one or more of the international treaties mentioned. But answering that question will involve consideration of caselaw addressed to s 51(xxix) and in particular the circumstances in which legislation will be considered to implement a treaty.

64. Section 51(xxix) provides the Commonwealth Parliament with power to pass legislation implementing any international obligation which the government has assumed under a bona fide international agreement, no matter what its subject matter,[68] subject of course to other limitations arising from the *Constitution*[69] (none of which are presently relevant). As to whether legislation "implements" an obligation, a measure of discretion is given to Parliament in selecting the means of implementation.[70] The ultimate question is whether the legislation is reasonably capable of being considered appropriate and adapted to implementing the treaty.[71]

65. The Amended s 78B Notice contends that "discrimination on the ground of gender identity ... is not the subject of a specific treaty like CEDAW and nor could it plausibly be said that in enacting antidiscrimination provisions concerning gender identity ... the Parliament is in some way giving effect to a Convention or treaty". It is also said that it is "doubtful that the provision could be validly enacted pursuant to the external affairs power by reference to isolated Articles of the international instruments". Both of those arguments should be rejected.

66. Gender identity discrimination is covered by CEDAW and the ICCPR: The Respondents will presumably argue that CEDAW is addressed to discrimination against women on the ground of sex, not discrimination on the ground of a person's gender identity.

67. There are two responses to this: first, CEDAW has been interpreted as applying to gender-based discrimination against women, including trans women; and, secondly, art

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[67] *AB v Registrar of Births, Deaths and Marriages* (2007) 162 FCR 528 at [96]-[97] (Kenny J, with whom Gyles J agreed).

[68] *Victoria v Commonwealth (Industrial Relations Act Case)* (1996) 187 CLR 416 at 483-5 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ); *Richardson v Forestry Commission* (1988) 164 CLR 261 at 289 (Mason CJ and Brennan J), 298 (Wilson J), 309 (Deane J), 321-3 (Dawson J), 332 (Toohey J), 342 (Gaudron J); *Commonwealth v Tasmania (Tasmanian Dam Case)* (1983) 158 CLR 1 at 127 (Mason J), 170-1 (Murphy J), 218-219 (Brennan J), 258 (Deane J); *R v Burgess; Ex parte Henry* (1936) 55 CLR 608 at 681-2 (Evatt and McTiernan JJ), 641 (Latham CJ).

[69] *R v Burgess; Ex parte Henry* (1936) 55 CLR 608 at 642.

[70] *Richardson v Forestry Commission* (1988) 164 CLR 261 at 295-6 (Mason CJ and Brennan J), 304 (Wilson J), 327 (Dawson J).

[71] *Victoria v Commonwealth (Industrial Relations Act Case)* (1996) 187 CLR 416 at 487 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ); see also *R v Wei Tang* (2008) 237 CLR 1 at [34] (Gleeson CJ, with Gummow, Heydon, Crennan and Kiefel JJ agreeing on this point).

26 of the ICCPR provides a further basis for the Commonwealth Parliament's power to legislate against gender identity discrimination.

68. CEDAW art 1 defines "discrimination against women" as any "distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women" of various rights and freedoms. The chapeau to art 2 condemns "discrimination against women", and for the purposes of eliminating such discrimination, the States Parties undertake to inter alia adopt legislative and other measures to prohibit all discrimination against women: art 2(b). However, CEDAW is not limited to addressing "discrimination against women" as defined. States Parties are also to take all appropriate measures, including legislation, to ensure the full development and advancement of women: art 3. They shall take appropriate measures to modify the social and cultural patterns of conduct of men and women with a view to achieving the elimination of prejudices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women: art 5(a).

69. The Commissioner submits that the ordinary meaning of "women" in CEDAW includes trans women. Although not expressly mentioned in CEDAW, the Convention is also concerned with discrimination based on a woman's or trans woman's gender identity.[72]

70. That is confirmed by reference to commentary by the CEDAW Committee. In interpreting CEDAW, "considerable weight should be given to the interpretations adopted by an independent body established to supervise the application of [a] treaty".[73] General recommendation 28, issued by the CEDAW Committee, relevantly provides that:[74]

> *Although the Convention only refers to sex-based discrimination, interpreting article 1 together with articles 2(f) and 5(a) indicates that the Convention covers gender-based discrimination against women. The term "sex" here refers to biological differences between men and women. The term "gender" refers to socially constructed identities, attributes and roles for women and men and*

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[72] Cf *AB v Registrar of Births, Deaths and Marriages* (2007) 162 FCR 528, concluding that a previous version of s 9(10), which applied the provisions to "discrimination against women", did not extend to discrimination on the grounds of marital status unless it *also* constituted discrimination on the ground of sex: at [108]-[109] (Kenny J, with whom Gyles J agreed); cf the dissenting judgment of Black CJ at [19]-[21]. The decision is not binding given the amendments to s 9(10) and given the subsequent commentaries of CEDAW and other treaty bodies discussed at [70]-[71] below.

[73] *CRI026 v Republic of Nauru* (2018) 92 ALJR 529 at [22] (the Court, comprising Kiefel CJ, Gageler and Nettle JJ), citing *Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo)* [2010] ICJ Rep 639 at 664 [66].

[74] CEDAW Committee, *General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women* (16 December 2010) UN Doc CEDAW/C/GC/28 (**General Recommendation 28**) at [5].

society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women.

71. The CEDAW Committee has also referred to the intersectional forms of discrimination faced by women, including on the basis of their gender identity,[75] and said that States Parties must recognise such intersecting forms of discrimination and prohibit them.[76] In 2018, the CEDAW Committee issued concluding observations in relation to Australia welcoming the provisions of the Amending Act which introduced gender identity discrimination, and recommended that Australia abolish requirements regarding medical treatment for transgender women who wish to obtain legal recognition of their gender so as to "guarantee the rights of transgender women to bodily integrity, autonomy and self-determination".[77]

72. Further or alternatively, ss 5B and 22 give effect to the prohibition on discrimination in art 26 of the ICCPR. Art 26 provides that "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex [etc] or other status". When the Amending Act was introduced, reliance was placed on art 26 in the 2013 EM (p 5), noting that the list of grounds was "non-exhaustive" and "decisions by the United Nations Human Rights Committee suggest that a clearly definable group of people linked by their common status is likely to fall within 'other status'" which had "been found by the Committee to include age, sexual orientation and marital status".

73. Subsequently, there has been express recognition by the UN Human Rights Committee (which supervises implementation of the ICCPR) that art 26 extends to discrimination on

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[75] General Recommendation 28 at [18]; CEDAW Committee, *General recommendation No. 33 on women's access to justice* (3 August 2015) UN Doc CEDAW/C/GC/33 at [8]; CEDAW Committee, *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19* (14 July 2017) UN Doc CEDAW/C/GC/35 at [12]; CEDAW Committee, *General recommendation No. 39 on the rights of Indigenous women and girls* (31 Oct 2022) UN Doc CEDAW/C/GC/39 at [22].

[76] General Recommendation 28 at [18].

[77] CEDAW Committee, Concluding Observations on the eighth periodic report of Australia, 25 July 2018, CEDAW/C/AUS/CO/8 at [4(d)], [49(e)], [50(e)]. See also other concluding observations calling on Paraguay and Russia to strengthen protections for transgender women: CEDAW Committee, Concluding observations on Paraguay, 21 October 2011, CEDAW/C/PRY/CO/6 at [12]; CEDAW Committee, Concluding observations on Russian Federation, 16 August 2010, CEDAW/C/USR/CO/7 at [41] and 30 November 2021, CEDAW/C/RUS/CO/9 at [46]-[47]. See also CEDAW Committee response under art 7(3) of the Optional Protocol to CEDAW to communication 134/2018 (Sri Lanka), CEDAW/C/81/D/134/2018 at [9.7] noting that the rights enshrined in CEDAW "belong to all women, including lesbian, bisexual, transgender and intersex women …".

the grounds of gender identity.[78] This is consistent with how art 2(2) of the International Covenant on Economic, Social and Cultural Rights (**ICESCR**) has been construed by the ESCR Committee as extending to gender identity discrimination.[79] It is also consistent with art 2 of the Yogyakarta principles, which provides inter alia that everyone is entitled to equality before the law and the equal protection of the law without discrimination on the basis of gender identity, among other things.[80]

74. Partial implementation: Based on the Amended s 78B Notice, the Respondents may argue that ss 5B and 22 go beyond s 51(xxix) because they constitute a partial implementation of CEDAW and/or the ICCPR. It is not yet clear how this argument will be put, and so the Commissioner will address this more fully in oral submissions.

75. To be reasonably capable of being considered appropriate and adapted to implementing a treaty, it is not necessary that a law implement every obligation in a treaty. A deficiency in the implementation of a treaty will lead to invalidity if "the deficiency is so substantial as to deny the law the character of a measure implementing the [treaty]" or if the deficiency (when combined with other provisions of the law) "make[s] it substantially inconsistent with the [treaty]".[81] This reasoning was applied by Full Federal Court in concluding that Part IIA of the *Racial Discrimination Act 1975* (Cth) was supported by s 51(xxix), despite the fact that it did not fully implement art 4 of the International

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[78] UN Human Rights Committee (**UNHRC**), *G v Australia*, Communication No. 2172/2012, UN Doc CCPR/C/119/D/2172/2012 (28 June 2017) at [4.14], [6.6] and [7.12]; UNHRC, *MZBM v Denmark*, Communication No. 2593/2015, UN Doc CCPR/C/119/D/2593/2015 (12 May 2017) at [6.6]; UNHRC, *Nepomnyashchiy v Russian Federation*, Communication No. 2318/2013, UN Doc CCPR/C/123/D/2318/2013 (23 August 2018) at [7.3]; UNHRC, *Ivanov v Russian Federation*, Communication No. 2635/2015, UN Doc CCPR/C/131/D/2635/2015 (14 May 2021) at [7.12]; UNHRC, *Alekseev v Russian Federation*, Communication No. 2757/2016, UN Doc CCPR/C/130/D/2757/2016 (9 June 2021) at [9.14]; UNHRC, *Mikhailova et al v Russian Federation*, Communication No 2943/2017, UN Doc CCPR/C/134/D/2943/2017 (29 August 2022) at [9.12]; UNHRC, *Savolaynen v Russian Federation*, Communication No. 2830/2016, UN Doc CCPR/C/135/D/2830/2016 (23 Jan 2023) at [7.15].

[79] Committee on Economic, Social and Cultural Rights, *General comment No 20: Non-discrimination in economic, social and cultural rights*, 2 July 2009, UN Doc E/C.12/GC/20 at [32]. While ICESCR is a "relevant international instrument" for the purposes of the SDA, since it only prohibits discrimination in relation to the exercise of the rights it contains, such as the rights to education and employment, it is does not provide an alternative basis for supporting ss 5B and 22.

[80] *Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity*, adopted March 2007. While these principles were agreed by a group of academics and UN experts, the experts agreed that they reflect the existing state of international human rights law (introduction p 7) and the principles have been relied upon by a variety of international and State bodies and courts as reflective of existing international human rights law obligations: see O'Flaherty 'The Yogyakarta Principles at Ten' (2015) 33(4) *Nordic Journal of Human Rights* 280 at 287-294. In addition to the sources cited by O'Flaherty, in 2018 the Court of Justice of the European Union relied on the Yogyakarta Principles in *F v Bevándorlási és Állampolgársági Hivatal*, case C-473/16 (25 January 2018), in interpreting the scope of the right to respect for private and family life under art 7 of the Charter of Fundamental Rights of the EU.

[81] *Victoria v Commonwealth (Industrial Relations Act Case)* (1996) 187 CLR 416 at 488-489 (Brennan CJ, Toohey, Gaudron, McHugh and Gummow JJ).

Convention on the Elimination of All Forms of Racial Discrimination.[82]

76. Likewise, here, the Court should conclude that ss 5B and 22, when viewed as one element of the suite of discrimination prohibited by the SDA and other Commonwealth legislation, as well as the various exemptions given which reflect exemptions provided for in international instruments, are within the scope of options reasonably available to the legislature to implement CEDAW and art 26 of the ICCPR.

77. A matter of international concern?: Finally, it may be that ss 5B and 22 are supported by s 51(xxix) because they are addressed to matters of "international concern".[83] Although it has been held at the appellate level that this is not a separate aspect of s 51(xxix),[84] that has not been conclusively determined by the High Court. It is however unnecessary to decide the issue here, given the alternative sources of power available under s 51.

Trading corporation: s 51(xx)

78. Section 9(11) of the SDA provides: "The prescribed provisions of Part II have effect in relation to discrimination by ... a trading ... corporation formed within the limits of the Commonwealth, or by or in relation to a person in the course of the person's duties or purported duties as an officer or employee of such a corporation." Section 9(13) confirms that the provisions (which again include s 22) have effect to the extent that the discrimination takes place in the course of the trading activities of the trading corporation.

79. It is understood the Respondents will contend that the First Respondent was not a "trading corporation",[85] possibly on the basis that its trading activities were minimal at the relevant time. The following principles will be relevant.

80. Section 51(xx) gives the Parliament power to make laws with respect to constitutional corporations. A law will fall into that category if it "singles out constitutional corporations as the object of the statutory command" and in that sense has a "discriminatory operation" on constitutional corporations.[86] That is so even if it also applies to non-constitutional corporations. Here, constitutional corporations are made the object of the statutory command in s 22, in circumstances where it applies to "persons" (including

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[82] *Toben v Jones* (2003) 129 FCR 515 at [17]-[21] (Carr J), [50] (Kiefel J) and [140]-[146] (Allsop J).

[83] See *Souliotopoulos v La Trobe University Liberal Club* (2002) 120 FCR 584 (Merkel J), upholding provisions of the *Disability Discrimination Act 1992* (Cth) on this ground.

[84] *Alqudsi v Commonwealth* (2015) 302 FLR 454 at [126]-[147] (Leeming JA, with whom Basten JA and McCallum J agreed).

[85] See ASOC [2(b)], and Defence [2(b)] denying the First Respondent is a "trading corporation".

[86] *New South Wales v Commonwealth (WorkChoices case)* (2006) 229 CLR 1 at [246], [249], [258].

bodies corporate[87]) and s 9(10) expressly refers to constitutional corporations.[88]

81. Whether a corporation is a trading corporation is determined having regard to the activities in which the corporation was engaged at the relevant time: here, when the alleged discrimination occurred. That is informed by a number of principles, including the fact that a corporation may be a trading corporation even though trading is not its predominant activity; the trading must be substantial and not merely peripheral; "trading" is not given a narrow construction and extends beyond buying and selling to business activities carried on with a view to earning revenue and includes trade in services; the making of profit is not an essential prerequisite to trade, but is a usual concomitant; the ends which a corporation seeks to achieve are irrelevant to its description; while its current activities are relevant, consideration will also be given to the corporation's intended purpose; and the commercial nature of an activity is an element in deciding whether the activity is in trade or trading.[89]

82. In that context, even if the revenue-producing activities the First Respondent engaged in constituted a minority of its activities, and even if the First Respondent did not generate a profit overall, that would not be determinative.

F.2 Alleged inconsistency within s 109 of the Constitution

83. Although the distinction has been doubted, a majority of the High Court has recently affirmed the notions of direct and indirect inconsistency for the purposes of s 109 of the *Constitution*: describing the former as a case where the State law "alters, impairs or detracts" from the operation of the Commonwealth law, and the latter as a case where the Commonwealth law is read as expressing "completely, exhaustively, or exclusively" what the law shall be on a subject matter[90] and the relevant State law enters upon that subject matter. In both cases the aim is to discern whether there is a "real conflict" between the two laws.[91] Where a State law is inconsistent with a Commonwealth law, it

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[87] *Acts Interpretation Act 1901* (Cth), s 2C(1).

[88] The application of s 22 to officers of a corporation in the course of their duties via s 9(11), and the imposition of liability under s 105 on a person such as the Second Respondent who is alleged to have facilitated a contravention of s 22 (ASOC [41]), is also supported by the incidental aspect of s 51(xx). See *Fencott v Muller* (1983) 152 CLR 570 at 599-600 (Mason, Murphy, Brennan, Deane JJ) upholding s 82(1) of the *Trade Practices Act 1974* (Cth).

[89] See *Bankstown Handicapped Children's Centre Association Inc v Hillman* (2010) 182 FCR 483 at [48] (Moore, Mansfield and Perram JJ), citing *Aboriginal Legal Service (WA) Inc v Lawrence (No 2)* (2008) 252 ALR 136 at [68] (Steytler P, Pullin and Le Miere JJ agreeing). See also *United Firefighters' Union of Australia v Country Fire Authority* (2015) 228 FCR 497 at [135]-[140] (the Court).

[90] *Work Health Authority v Outback Ballooning Pty Ltd* (2019) 266 CLR 428 (***Outback Ballooning***), [32]-[33] (Kiefel CJ, Bell, Keane, Nettle and Gordon JJ); cf [67] (Gageler J), [105] (Edelman J).

[91] *Outback Ballooning* (2019) 266 CLR 428, [70] (Gageler J) and [105] (Edelman J), citing *Jemena Asset Management (3) Pty Ltd v Coinvest Ltd* (2011) 244 CLR 508 at [42] (the Court).

is inoperative (as opposed to invalid[92]) to the extent of the inconsistency.

84. In the Amended s 78B Notice the Respondents allege that the "legal construct of 'female'" that emerges from s 24 of the BDMR Act directly clashes with the operation of and/or applies to a matter that is comprehensively regulated by ... ss 5, 5B, 7B, 7D and 22 of the SDA". It is assumed that both "direct" and "indirect" inconsistency is alleged.

85. Section 22 of the BDMR Act provides that the reassignment of a person's sex after sexual reassignment surgery may be noted on the person's entry in the register of births. Section 24(4) provides that a person who has had such a reassignment noted on their entry in the register "is a person of the sex as reassigned". Section 24(1) and (2) provide equivalent recognition for a reassignment of sex entered into a register maintained under the law of another State that provides for the registration of births, and for a "recognition certificate" issued under the law of another State that identifies a person as having undergone sexual reassignment surgery and as being the sex stated in the certificate.

86. The Commissioner has submitted above that State and Territory legislation such as the BDRM Act, which permits a person to change the record of their sex in this way, informs the ordinary meaning of the word "sex" as it appears in the SDA. It is understood the Respondents challenge the operation of s 24 in order to meet (at least) that argument, and to contend that the Applicant's status as "female" on the Queensland register should have no effect on whether she is of the female "sex" or a "woman" for the purposes of the SDA. (Presumably, if the Court were to conclude that the Applicant's status as "female" on the Queensland births register has no bearing on whether she is of the female "sex" for the purposes of the SDA, the Respondents' challenge to s 24 would fall away.)

87. The Commissioner submits that there is no direct inconsistency. As explained above, the SDA does not define the word "sex". The definitions of "man" and "woman" were repealed so that they could carry their ordinary meaning. For the reasons given at [20]-[22] above, provisions such as s 24 of the BDRM Act do not "detract" from the operation of the SDA but inform the meaning of the words "sex", "man" and "woman".

88. There is also no indirect inconsistency. Even if (contrary to the above submissions) the SDA creates its own unique meaning of "sex" and "woman" which is independent from the operation of State and Territory laws, there is no indication that it was intended to define those concepts for *all purposes* beyond discrimination law, including as to how those concepts are used for the purposes of birth registers (and nor is it clear that the

[92] *Carter v Egg and Egg Pulp Marketing Board (Vic)* (1942) 66 CLR 557, 573 (Latham CJ), 599 (Williams J) (meaning that the State law is inoperative for so long as the inconsistency remains).

Commonwealth Parliament would have power to do so). The subject matter of the SDA is (relevantly) discrimination on the specified grounds. The BDMR Act does not address that subject matter, but rather addresses the register and the making of entries upon it.

89. The SDA is not even intended to be an exhaustive statement of the law of discrimination on the grounds it deals with. Sections 10 and 11 expressly preserve the operation of certain State and Territory discrimination laws and work health and safety laws, provided they are capable of operating concurrently with the SDA: s 10(3), 11(3).[93]

G. CONCLUSION

90. For the above reasons, the Court should adopt the conclusions set out at [4] above. Given her role as amicus curiae, the Commissioner does not seek costs and costs should not be awarded against her.

Date: 10 August 2023



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[93] While such a statement cannot avoid the operation of a direct inconsistency, it is relevant to (albeit not determinative of) the question whether the law was intended to be an exhaustive statement of the law on the relevant subject matter: *John Holland Pty Ltd v Victorian Workcover Authority* (2009) 239 CLR 518 at [20] (the Court); *Momcilovic v R* (2011) 245 CLR 1 at [111]-[112] (French CJ), [315]-[316], [342] (Hayne J), [654] (Crennan and Kiefel JJ), see also [272] (Gummow J, with Bell J agreeing).

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Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the Schedule

Respondents

SUBMISSIONS OF THE APPLICANT ON THE SUBSTANTIVE APPLICATION

A. Overview

1. The applicant, Ms Tickle, is a woman. Her sex, as recorded in the Queensland Registry of Births, Deaths and Marriages, is female. Ms Tickle underwent gender affirming surgery in October 2019. She identifies as female. There is no conflict between her gender identity and her sex. Despite those facts, the respondents continue to allege that Ms Tickle is "an adult human male".[1]

2. The respondents created, owned and operated a digital application for use by women only – "Giggle". Access to Giggle was determined by artificial intelligence, engineered to determine whether an aspiring user was a woman. Ms Tickle – being a woman – was initially granted unencumbered access to Giggle for a period of 7 months, her access was, presumably, 'approved' by the AI processes in place. Notwithstanding that Ms Tickle is a woman, therefore meeting the requirements for Giggle use, the second respondent restricted Ms Tickle's access to Giggle. Why? Because the second respondent perceived, and continues to persist with her identification of, Ms Tickle as an "adult human male".[2] The natural inference is that Ms Tickle, for the respondents' purposes, does not bear sufficiently female characteristics.

3. In brief, those are the circumstances that caused Ms Tickle to bring an application in this Court for gender identity discrimination pursuant to sections 22 and 5B of the *Sex*

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1 Respondents' defence at [23].

2 See also Applicant's interlocutory submissions dated 24 March 2023, "Background" section. See also Applicant's submissions on termination of AHRC complaint dated 12 May 2023.

Discrimination Act 1984 (Cth) (**Sex Discrimination Act**). The respondents imposed a condition that users of Giggle be cisgender women or be perceived as cisgender women (**Condition**).[3] But by reason of Ms Tickle's gender identity as a transgender woman she has been treated less favourably than her cisgender counterpart who is perceived as being female. In this context, Ms Tickle's discrimination claim is one properly characterised as gender identity discrimination.[4]

B. The constitutional questions

4. Ms Tickle adopts the submissions of the Sex Discrimination Commissioner (**Commissioner**) that there is no question (without the benefit of the respondents' argument) as to the Constitutional validity of section 5B of the Sex Discrimination Act and section 24 of the *Births, Deaths and Marriages Registration Act 2003* (Qld) (**BDMR Act**).

5. For the reasons explained by the Commissioner, section 5B of the Sex Discrimination Act is supported by the external affairs power (section 51(xxix)) of the *Constitution*,[5] including as it applies to the first respondent (being a trading corporation);[6] and section 24 of BDMR Act is not inconsistent with the Sex Discrimination Act, least of all for the purposes of section 109 of the Constitution.[7]

C. The correct interpretation of "sex" and "gender identity"

6. Ms Tickle's application turns on the meaning of "sex" and "gender identity" for the purposes of the Sex Discrimination Act. Succinctly put by the Commissioner, there is a "threshold question" that must first be determined by this Court.[8] That is because the respondents contend that Ms Tickle's claim is one best characterised as discrimination on the basis of (their interpretation of) "sex": a fixed and immutable construct, and a binary construct. That is to be contrasted with Ms Tickle's position: sex may be

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3 Amended statement of claim at [34].

4 See also Submissions of the Sex Discrimination Commissioner dated 10 August 2023 at [45] (**Commissioner Submissions**).

5 Commissioner submissions at [61]-[77].

6 See Commissioner submissions at [78]-[82]. See further Applicant's submissions in response to respondents' submissions on objection to competency dated 14 April 2023 at [26]-[29] (**NOC Submissions**). This Court should not accept the submission that the First Respondent was not a trading corporation by the bare statement that its "trading activities were utterly diminutive". The Court must engage in a factual enquiry considering the criteria set out at [28] of the NOC Submissions.

7 Commissioner submissions at [84]-[89].

8 Commissioner submissions at [14], see further [15]-[17].

changed; and it need not be binary. Thus, Ms Tickle's position may be stated simply: she is a female for all purposes including the Sex Discrimination Act.

7. Ms Tickle adopts the submissions of the Commissioner,[9] and adopts them in full but in particular the following conclusions:

7.1 "a person is of the female 'sex' for the purposes of the [Sex Discrimination Act] if they have had gender affirming surgery affirming their status as female";[10]

7.2 "sex is not a binary concept";[11]

7.3 "sex can be changed";[12]

7.4 in addition to a person's intrinsic sense of self, "gender identity also includes a person's 'gender-related appearance', 'gender-related mannerisms' and other 'gender-related characteristics'";[13] and

7.5 "[b]y including these 'outward social markers' as part of gender identity, the legislature was acknowledging that it is 'often the discord between a person's gender presentation and their identity which is the cause of the discrimination'".[14]

D. Ms Tickle was subject to gender identity discrimination

8. The Commissioner's illustration of the direct discrimination a transgender woman may experience is especially apposite. She explains:

> "a trans woman may say that her gender identity is female, but s 5B(1) would still protect her from direct discrimination on the ground that she was identified by the discriminator as a trans woman and was treated less favourably than a person with a different gender identity as a result. Specifically, a trans woman who identifies as female may face direct discrimination because her gender-related appearance, mannerisms or other gender-related characteristics are not perceived as being ('sufficiently') female".

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9 Commissioner submissions at [20]-[46].
10 Commissioner submissions at [25].
11 Commissioner submissions at [30].
12 Commissioner submissions at [31]-[36].
13 Commissioner submissions at [39].
14 Commissioner submissions at [41].

9. Ms Tickle gratefully adopts that submission which captures precisely one limb of Ms Tickle's case. Ms Tickle self-identifies as a woman and can be correctly identified objectively as both a woman and a transgender woman. The respondents, in treating and identifying her as a man, treated her as not sufficiently female. It follows, Ms Tickle has suffered direct discrimination on the basis of her gender identity. Had Ms Tickle been perceived as a cisgender female (or a transgender woman with such features so as to appear cisgender to the second respondent) her access to Giggle would not have been restricted.

10. Further, if this Court were to accept the respondents' argument that one's sex cannot be changed, then it would necessarily follow that a transgender man could access and use Giggle, without complaint by the respondents. That is because, notwithstanding, that this hypothetical person identifies as a man and appears as a man, the respondents must be taken to accept that he is a 'natal woman' and therefore eligible to access an app made for women. That would be entirely contradictory to the ostensible purpose of the app (and the respondent's claim that the Condition was a 'special measure' within the meaning of section 7D of the Sex Discrimination Act).

11. In the alternative, Ms Tickle submits that she has been subject to indirect discrimination. That is because the Condition operates to disadvantage transgender women in that most (if not all transgender women) are vulnerable to exclusion from the use of Giggle in the same manner as cisgender women.

12. The respondents will contend that the Condition was a "special measure" within the meaning of section 7D of the Sex Discrimination Act.[15] Presumably – because of the respondents' position that Ms Tickle is a man – this must be on the basis of section 7D(1)(a), being a special measure for the purposes of achieving substantive equality between men and women. The respondents' argument must fail. That is because a condition cannot achieve its intended purpose when applied to Ms Tickle, for the simple reason that Ms Tickle is not a man.[16] Whatever prima facie discriminatory condition is imposed, as noted by the Commissioner, there must be some observable *corresponding* benefit sounding in equality.[17] Thus, while the respondents may lawfully argue that the a condition is necessary to achieve substantive equality as

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15 Defence at [5].
16 See further Commissioner submissions at [53]-[54].
17 Commissioner submissions at [54], [55], [58].

between women and men (i.e., by creating a space for women only), this can only withstand scrutiny if the said condition is applied as against those who identify as men. Such a condition cannot be used to discriminate against a woman (be it a transgender woman or a woman without sufficiently female features). There is no reason for such discrimination between *women*.

13. In conclusion, Ms Tickle was discriminated against by the respondents. Because Ms Tickle is a woman, that discrimination cannot have been on the basis of sex. But Ms Tickle is a trans woman, and her gender identity is that of a transgender woman. The discrimination she suffered was gender identity discrimination. Her use of Giggle was restricted (or terminated) because she did not appear sufficiently female. A cisgender woman (in particular, one who was considered sufficiently female by the second respondent) would not have experienced the same discrimination. The short point is this: both cisgender and transgender women are women, in life and for the purposes of the Sex Discrimination Act, and both are entitled to equality – in society and at law – as women.

Date: 13 September 2023

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No. NSD4811 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017) & ANOR
Respondent

RESPONDENTS' OUTLINE OF SUBMISSIONS

INTRODUCTION

1. The Applicant is not a woman. The Applicant is a man.

2. He was excluded from the First Respondent's female only online App by the Second Respondent upon her visual perception of his male sex.

3. This act was not discrimination for the purposes of the *Sex Discrimination Act 1984* (Cth) (**SDA**) because, in the circumstances of this case, the exclusion of males from online female only spaces is a special measure for the purpose of achieving substantive equality between men and women: s 7D(1)(a), (aa), (c) – (f), (2) and (3) of the SDA.

SEX

4. It is well settled that "[t]he starting point for the ascertainment of the meaning of a statutory provision is the text of the statute whilst, at the same time, regard is had to its context and purpose".[1] Consistent with this approach the context and purpose of the SDA understood in its statutory and historical or other context situates the legislation firmly in the implementation of the Convention on the Elimination of All

[1] *SZTAL v Minister for Immigration and Border Protection* [2017] HCA 34; 262 CLR 362 at [14], citing *Project Blue Sky Inc v Australian Broadcasting Authority* [1998] HCA 28; 194 CLR 355 at [69]-[71]; and *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* [2009] HCA 27; 239 CLR 27 at [47].

Forms of Discrimination Against Women[2] (**CEDAW**) as its primary object: see s 3 (a) of the SDA and the Schedule to the SDA[3].

5. CEDAW finds no equivalent in international human rights law, hence, extreme caution should be taken in applying approaches derived from other human rights instruments by analogy.

6. The object and purpose of CEDAW is to eliminate sex-based discrimination against women to achieve equality between the sexes in the enjoyment of human rights, chiefly by promoting men's equal involvement in family responsibilities, in contrast to traditional roles that apportion family responsibilities to women and public activity to men and recognising the unique challenges and barriers women face to their participation in public life.

7. CEDAW's overarching object and purpose, as stated by the CEDAW Committee (**Committee**), is "to eliminate all forms of discrimination against women with a view to achieving women's de jure and de facto equality with men in the enjoyment of their human rights and fundamental freedoms. States parties to the Convention are under a legal obligation to respect, protect, promote and fulfil this right to nondiscrimination for women and to ensure the development and advancement of women in order to improve their position to one of de jure as well as de facto equality with men."[4] CEDAW seeks to protect women's rights to non-discrimination and equality in political and public life, economic and social matters and in legal and civil matters.

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[2] UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13.

[3] See Commonwealth, *Parliamentary Debates*, House of Representative, 28 February 1984, p. 67 where Mr Young, Special Minister of State said "The objects of the Bill are to give effect to certain provisions of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women which the Government ratified last year; to eliminate discrimination on the ground of sex, marital status or pregnancy in the areas of employment, education, accommodation, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs, and discrimination of Commonwealth laws and programs, and discrimination involving sexual harassment in the work place and in educational institutions; and to promote recognition and acceptance within the community of the principle of the equality of men and women."

[4] UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 16 December 2010, CEDAW/C/GC/28, [4], see also [6] – [10].

8. In fulfilling its object and purpose, CEDAW takes a notoriously asymmetrical approach to sex-based discrimination, addressing only women as subjects, and men as their comparators. That is, men are not rights holders under CEDAW rather they are the comparator class. States are obligated to take measures to transform patterns of behaviour of both sexes in order to eliminate stereotyped roles and harmful practices: CEDAW Article 5(a) and 10(c)[5].

9. Where legislation gives effect to a treaty by adopting the words used in that treaty, then in the interests of certainty and uniformity the provisions of the legislation should be interpreted using the interpretative principles which apply to that treaty.[6] CEDAW's approach to sex, gender, and sex-role stereotyping addresses the relationship between sex and gender in terms that acknowledge the differential experiences of men and women related to their sexed bodies, as well as the harm caused to women by prevailing gender relations based on differential roles for men and women associated respectively with male social hegemony. These features of CEDAW, as well as the application of canons of treaty interpretation[7] when applied to the definition of *women* and related terms, carry the way in which the implementation of CEDAW in the SDA is to be understood in providing for the protection of the rights of women and girls.

10. The terms *women*, *men*, *sex*, *male*, and *female* are necessary constituents of the stated aim of CEDAW to eliminate all forms of sex-based discrimination against women, yet they are not defined. There is no discussion of these terms in the travaux

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[5] This was faithfully implemented by the SDA until the purported amendment to s 9(10) in 2011 by the *Sex and Age Discrimination Legislation Amendment Act 2011* (Cth) s 3, [3(a)] "After "Women", insert "and to provisions of other relevant international instruments"."

[6] See eg. *El Greco (Australia) Pty Ltd v Mediterranean Shipping Co SA* [2004] FCAFC 202; 140 FCR 296, per Allsop J, as the former Chief Justice then was, at [142] – [148] (with whom Black CJ agreed).

[7] Section 15 AB of the *Acts Interpretation Act 1901* (Cth). See eg. The Vienna Convention on the Law of Treaties (1969) 115 UNTS 331; 8ILM 679; [1974] ATS 2, (**VCLT**), Articles 31 and 32, which codify customary international law on the correct approach to treaty interpretation and are applied as such by Australian courts: *Commissioner of Taxation v SNF (Australia) Pty Ltd* [2011] FCAFC 74 at [113] ; *De L v Director General, New South Wales Department of Community Services* (1996) 187 CLR 640 at 675 – 676 per Kirby J, and *SZOQQ v Minister for Immigration and Citizenship* [2011] FCA 1237 at [22]. See also Article 26 and *pacta sunt servanda*, which requires a conservative not expansive interpretation of the text. A treaty is to be interpreted in the wider context of international law. See also *Koowarta v Bjelke-Petersen* [1982] HCA 27; 153 CLR 168 at 265 per Brennan J; *Applicant A v Minister for Immigration and Ethnic Affairs* [1997] HCA 4; 190 CLR 225 at 240 and 247 per Dawson J; *Minister for Immigration and Ethnic Affairs v Teoh* [1995] HCA 20; 183 CLR 273 at 287 - 288 per Mason CJ and Deane J.

préparatoires.[8] The absence of debate as to the meaning to be ascribed to these terms suggests that they are to be understood according to their plain and ordinary meaning[9], and that this meaning was not viewed as ambiguous.

11. To the extent to which any weight can be given to it[10], the CEDAW Committee has at no time derogated from this approach to construction and meaning of these essential expressions.[11] Rather, the Committee has stated unequivocally that *sex* means the "biological differences between men and women" and *gender* means the "socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences".[12]

12. The plain meaning for the purpose of determining the rights holders under a treaty on elimination of discrimination against women would necessarily be the denotative one: that is, the counterpart to a man, an adult female human. Although the expression has connotative meanings associated with social roles and stereotypes, such meanings

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[8] Rehof, Lars Adam. 1993. *Guide to the travaux préparatoires of the United Nations Convention on the Elimination of all Forms of Discrimination against Women*. Dordrecht: M. Nijhoff Publishers and Rudolf, Beate, Marsha A. Freeman, and C. M. Chinkin. 2012. *The UN Convention on the Elimination of all Forms of Discrimination against Women: a commentary*. Oxford: Oxford University Press.

[9] See affidavit and expert report of Dr Kathleen Stock filed 24 October 2023.

[10] See eg. *Maloney v The Queen* [2013] HCA 28; 252 CLR 168 [61] per Hayne J.

[11] Cf. Commissioner's Submissions at [69] – [71]. The Committee in General Recommendation 28 (2010), explicitly couched their observations as to sex and gender discrimination that affect women belonging to such groups as occurring to a different degree or in different ways to men (at [18]). The same observations can be made of Recommendations 33 at [8], 35 at [12] and 39 at [22], cited in Commissioner's Submissions at fn. 75. Each refers to circumstances where <u>*females*</u> transgress normative stereotypes of their sex. The stated need for the removal of the definitions of *man* and *woman* as expressed in the 2013 Explanatory Memorandum to the Amending Act at [18] are apt to demonstrate the impermissible legislative abandonment of the SDA's stated purpose in a manner so substantial as to deny the law the character of an appropriate and adapted implementation of CEDAW: *Victoria v The Commonwealth* [1937] HCA 82; 58 CLR 618 (***Victoria v Cth***) at 488 – 489.

[12] See UN Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, 16 December 2010, CEDAW/C/GC/28, [5]. Although the definition of discrimination in Article 1 of CEDAW refers to 'sex', several provisions of CEDAW, for example Articles 2(f), 5, 16, encompass gender stereotypes and traditional gender related social roles. Moreover, the Committee has affirmed that CEDAW encompasses discrimination on the grounds of sex and gender: General Recommendation 28, UN Doc CEDAW/C/GC/28, [3], [5], [16]–[17]; General Recommendation 25, UN Doc A/59/38, annex I [5], [7], [11].

are inconsistent with not only the indubitable natural phenomenon, which is sex[13], but also with the stated objective of CEDAW to require states to take measures to eliminate "stereotyped roles for men and women". Accordingly, they are to be eschewed. This constructional choice is confirmed by not only ordinary common sense[14], but by the expression's usage in the treaty's textual provisions, which shed light on women's physical and social reality as distinct from that of men, and the treaty's asymmetrical object and purpose to eliminate sex-based discrimination against women occasioned by their membership of a global political class uniquely disadvantaged by the actions of men.

13. That CEDAW refers to *men* and *women* as *the sexes* and speaks of women's physical capacities to become pregnant, give birth, and lactate amplifies this meaning: see CEDAW Articles 5(a), 11 and 12. These capacities are unique to women and not shared by men. The treaty's text treats women's reproductive role as an incontrovertible fact and establishes substantive norms to provide for women in relation to these life experiences as a case of substantive equality rights. That is, because women's biological experiences are unique to them, they must be provided for in law and policy, on a permanent basis: not relegated because they pertain only to women and not to men.

14. These contextual references indicate that women under CEDAW are human beings whose bodies are female, who, by their sexed bodies have been disadvantaged not only by the relegation of their experiences related to this sexed embodiment, but also by the imposition of socially constructed roles, stereotypes, and limitations based on their membership in the class of persons who have female bodies. This is made pellucid by the fact that females are the class of persons who are vulnerable to male violence by reason of their sex regardless of their gender role, gender identity or sexual orientation.

15. These definitions must necessarily be implemented by the SDA and would, as the natural corollary, have meaning ascribed to those expressions as they appear in the SDA.

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[13] See the discussion to this effect from an ontological perspective by Dr Kathleen Stock in her affidavit and expert report filed 24 October 2023.

[14] See the critique and commentary by The Honourable Justice John Middleton in 'Statutory Interpretation: Mostly Common Sense?' *Melbourne University Law Review*, 2016, Vol 40: 626.

GENDER IDENTITY

16. The expression "gender identity" finds no support in CEDAW.

17. "Gender identity" is not a political class and cannot rationally be classified as an objective ascertainable characteristic of identifiable social groups necessary to qualify as "other status" for the purposes of Article 26 of the ICCPR[15].

18. To the extent to which the constellation of "other relevant international instruments"[16] are relied upon to give the SDA constitutional force, these instruments have been insufficiently implemented to be reasonably capable of being considered an appropriate and adapted implementation of the respective international instruments as required by 51 (xxix) of the Constitution[17], and thereby, can have no constitutional force.[18]

19. The Yogyakarta Principles are not a "matter of international concern"[19]. The Yogyakarta Principles are not legally binding for any state or governing body. They are the product of a civil society expert conference. It involved no act of the Australian Executive. They have not been embraced by the CEDAW Committee. They are

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[15] UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Cf. Commissioners Submissions at [67].

[16] Sections 4 and 9(10) SDA as inserted by *Sex and Age Discrimination Legislation Amendment Act 2011* (Cth).

[17] *Victoria v Cth* at 486 - 487.

[18] This submission finds support in the Commissioner's Submissions at [67], whereby reliance is placed on nothing more than Article 26 of the ICCPR. Regard need only be had to what Allsop J, as the former Chief Justice then was, said in *Toben v Jones* [2003] FCAFC 137; 129 FCR 515 at [138] and [140]. That is, "138. ... *It is not sufficient that the law prescribes one of a variety of means that might be thought appropriate and adapted to the achievement of an ideal. The law must prescribe a regime that the treaty itself has defined with sufficient specificity to direct the general course taken by the signatory States*" and "140. Thirdly, it is unnecessary for the law to be a full and complete implementation of the treaty. There may be a deficiency in the implementation of the supporting Convention. This is not fatal, *unless the deficiency is so substantial as to deny the law the character of a measure implementing the Convention, or unless the deficiency, in the light of other provisions of the domestic law, makes the law inconsistent with the Convention*." [emphasis added].

[19] See for example, *XYZ v Commonwealth* [2006] HCA 25; (2006) 227 CLR 532 where at [19] Gleeson CJ said that it may be doubted that a topic is relevantly of international concern simply because it is discussed at an overseas conference. And, see also how the concept was examined explicitly to in Pape v *Federal Commissioner of Taxation* [2009] HCA 23; 238 CLR 1 at [470] – [473] by Heydon J; see also his Honour's remarks at [474] and particularly, fn. 509 thereto.

incapable of holding any constitutional force. Nevertheless, a textual comparison of their relevant provisions and ss 4 and 5B of the SDA reveals that they are the clear source of the legislative amendment.

20. The Yogyakarta Principles were drafted by a group of international human rights experts in Yogyakarta, Indonesia in 2007. The introduction acknowledges the universality, independency, indivisibility and interrelated nature of human rights. The Yogyakarta Principles do not purport to carve out a special category for sexual orientation or gender identity as a human right, rather they seek to remove the imposition by many states and societies of gender and sexual orientation norms on individuals through customs, law and violence which seeks to control how they experience personal relationships and how they identify themselves. The concern informing the participating experts was the policing of sexuality which was considered to be a major force behind continuing gender-based violence and gender inequality. Properly understood, the Yogyakarta Principles seek relief from gender norms in a manner no different to CEDAW through the lens of sexuality, and in that way relevantly reflect the existing state of international human rights law. This is, the relevant matter of concern vexing those experts was the abolition of fixed gender stereotypes which have by reason of their entrenched history, strong heteronormative features, which disadvantage some homosexuals, particularly in marital and family life. Neither the Yogyakarta Principles nor CEDAW require the deliverance from these stereotypes to be at the expense of a person's sex as a protected class.

21. In the Yogyakarta Principles, "gender identity" is understood to mean:

> each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.[20]

22. Notably, in this definition, *gender* itself is not defined. Its adjacency to "sex assigned at birth," with which a person's internal experience of gender may or may not correspond situates a person's gender identity in personal expression, through dress, speech, and

[20] Compare the definition of "gender identity" in s 4 of the SDA "gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth."

mannerisms, 'modification of bodily appearance and function,' and other possible means, more commonly understood to be personality or personal expression. The inherent difficulty exposed by this definition, which carries through to the SDA, in ss 4 and s 5B, is attributing meaning in a human rights context to the way in which one's personality and outward expression of it can be understood to correspond or not correspond with their sex.

23. Such is evidenced by the tautological incoherence of the Imposed Condition[21] the Applicant alleges in this case. The Applicant freely accepts that he is male but complains that the Second Respondent rapidly identified his male sex from a two-dimensional photograph on a visual assessment and excluded him from a female only app. If this is the effect of the gender identity provisions in the SDA, they are unworkable, as it is impossible to discern where the incoherence ends, and the discrimination begins. Assuming for the purposes of argument only, the validity of the SDA's 2013 gender-identity provisions, this cannot be their intended result[22]. Rather, the Court should resist the invitation implicitly extended by both the Commissioner and the Applicant to strain to give a meaning to the provisions which is artificial or departs markedly from their ordinary meaning simply in order to preserve their constitutional validity.[23]

24. Nor is *sex* defined by the Yogyakarta Principles. The nexus with 'sex assigned at birth' and 'modification of bodily appearance and function' suggests that the Yogyakarta Principles treats sex and gender as mutable social constructs that can change by modifying bodily structure and function or by redefining it to accommodate an individual's personal sense of self.

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[21] ASOC [34]. The Applicant complains that it was a condition of entry into the App that an applicant be a cisgendered female", (which is a woman who identifies as a woman) or "be determined as having cisgendered physical characteristics on assessment conducted on a photograph". Properly understood, his complaint is that only (1) women who look like women, or (2) people who look like women who are women, were permitted use of the App. The circularity of this complaint does not bear scrutiny. It is utterly meaningless. Looked at in this way, the complaint reveals the strained statutory construction required so the statutory language of ss 5 and 5D of the SDA to give it meaning.

[22] Inconvenience or improbability of result is a reason why one construction is to be preferred over another: *Cooper Brookes (Wollongong) Pty Ltd v Federal Commissioner of Taxation* [1981] HCA 26; 147 CLR 297 at 320-321 and *Network Ten Pty Ltd v TCN Channel Nine Pty Ltd* [2004] HCA 14; (2004) 218 CLR 273 at [11].

[23] *International Finance Trust Co Ltd v New South Wales Crime Commission* [2009] HCA 49; (2009) 240 CLR 319 at [42].

25. In short, gender identity in this context purports to elevate the pursuit of a sexist stereotypical personal aesthetics to a human rights principle. A woman is not a dress, a string of beads and lipstick. She is not a eunuch. A woman who has breast implants, ribs removed, and or extensive facial rhinoplasty is not more a 'real' woman than a woman who has in no way altered her appearance.[24] Likewise, a man with breast implants, who has undergone hair removal, is not a woman. Similarly, offensive words cannot prevent a woman from experiencing the reality of her sexed embodiment.[25]

26. Shortly stated, the length to which a man may modify his physique to "shape himself and his fate" (as the case may relevantly be) does not and cannot make him a woman.[26] Nor can his expression of a desire to become pregnant[27] make him a woman any more than an expression of a desire to leap tall buildings in a single bound makes one a Superman. So too the modification of a woman's body in the contrasting way, voluntarily or otherwise, does not make her less of a woman, or indeed a man. A woman may seek removal of her reproductive organs or her breasts for its own sake because they are uncomfortable or redundant, or, for informed and voluntary medical reasons, without identifying as a man, or indeed, becoming one. Moreover, to endow such feelings, longings, or pursuits the character of transforming one to a different viz. opposite sex is completely antithetical to the purpose of CEDAW by the simple facts that it first, serves to entrench the very harmful gender stereotypes that it sought to eliminate and, second and most importantly, women are differentially and disproportionately affected and disadvantaged by it at the expense of men.

27. Consistent with CEDAW's and thereby the SDA's purpose and objectives, contesting the hierarchy of gender relations between men and women that prevail throughout the world and domestically, requires an ability to identify members of the advantaged and disadvantaged classes. This work is disrupted and fragmented when we cannot reliably know whether *woman* refers to someone who is female or male, for example, when rape by a "penised" individual can be reported and classified as rape by a

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[24] See the discussion to this effect by Dr Kathleen Stock in her affidavit and expert report filed 24 October 2023.

[25] Cf. Affidavit of the Applicant dated 13 September 2023 at [41].

[26] Cf. *The Attorney-General for the Commonwealth & "Kevin and Jennifer" & Human Rights and Equal Opportunity Commission* [2003] FamCA 94; 172 FLR 300 (***Kevin & Jennifer***) at [13]. See also the affidavits and expert report of Dr Kathleen Stock filed 24 October 2023 and Dr Colin Wright filed 23 October 2023.

[27] Commissioner's Submissions at [35].

woman. And should such an individual *be placed in a female prison, as happens*, women are put at risk of violence, rape, and pregnancy.[28]

28. By linking gender to personal expression with respect to dress, mannerisms and speech that may or may not be associated with a person's sex at birth, gender identity implicitly accepts a concept of gender as equivalent to stereotypes. When feelings and beliefs about mannerisms, dress, and speech appropriate to one sex or the other are abstracted and made to serve as a ground for personal identity, the legal potency of CEDAW's provisions to deal with harmful gendered stereotypes is rendered impotent. As the aim of eliminating sex-role stereotypes and harmful practices represents a strong theme in CEDAW jurisprudence, "gender identity" unmistakeably detracts from and undermines its object and purpose. It follows that its inclusion in the SDA is of the like effect.

29. The disparity of power and resources between males and females that CEDAW, viz. the SDA, seeks to redress does not disappear when males identify as women or vice versa. Both the transformation of prevailing gender relations and the adoption of substantive equality measures which CEDAW seeks to promote are undermined if women are deemed to be no more than a self-expression or aesthetic modification of the body, a feeling or desire; and include males.

30. Likewise, substituting biological sex for internal identity, manifested externally or not, recorded in the form of self-ID laws, upon the request of any person, or not, renders the political class of women incoherent and fragmented. It permits males, at their discretion, to proclaim no difference between themselves and females, and disallows females from asserting their natural and evolutionarily necessary perception of that difference[29]. It effectively allows men in places where men should not go[30] (women's dormitories, change room, bathrooms, toilets, prisons, rape crisis centres, hospital wards, domestic violence refuges, social and support groups, etc and their digital equivalencies), including those that have been deliberately constructed with a view to achieving women's dignity, advancement, safety, or cultural and political self-determination in a globally male-dominated society.

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[28] Affidavit of Dr Helen Joyce filed 24 October 2023 at [59]-[75].

[29] See affidavit and expert reports of Dr Colin Wright filed 23 October 2023 and Dr Helen Joyce filed 24 October 2023.

[30] Commissioner's Submissions at [43].

31. Lest it not be plain, the paramount problem here is the prospect of male violence for which women must be permitted to take preventative measures.

32. The category of self-declared "women" or "trans women", however, the purported subset is to be described, will inexorably be comprised of men - many with post-pubescent male strength, no surgical alteration of genitalia[31], and a sexual orientation towards females. As the above analysis clearly demonstrates, the entry of men, however they may choose to identify, into female-only spaces is not supported by CEDAW. Likewise, it is unfathomable how it could be otherwise supported by any of the constellation of "relevant international instruments" upon which the 2013 inclusion of s 5D of the SDA purports to derive its constitutional validity.

33. While the reverse would also hold in principle, the deterrent of the threat of male violence, aggression, and dominance, both physically and virtually, against women provides less justification for male-only spaces.

34. It perhaps should also be observed that the paradigm of reasoning that underpins gender-identity is profoundly offensive to men; in that it must necessarily follow that men who do not fulfil the typical male stereotype of masculine aesthetics and traits are, by this paradigm, relegated to the default sex of woman, and thereby, disadvantaged. That this is not the intended outcome of CEDAW is perhaps so palpable it need not be stated.

35. Understood properly, gender-identity effectively entails the erasure of women as a sex class and with it, women's human rights, primarily by rendering them unintelligible. While it may have been desirable to allow instances of same-sex marriage prior to the amendments to the *Marriage Act 1961* (Cth)[32] in 2017 to include same sex marriage by the device of one partner adopting a cross-sex gender identity[33], these measures provide individual solutions never considered in the context of the irreconcilable conflicts that have emerged in principle and practice between gender identity as social

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[31] Note also, for the purposes of the self ID law under consideration in this case, s 24 of the BDM, the definition of *sexual reassignment surgery* in s 4, Schedule 2, of the BDM Act, is not so narrow as to require surgical intervention to achieve a simulacrum of female genitalia. For example, an orchidectomy would qualify. And it is well established that castration is not an inhibition to erectile function. One only need look to the behaviour exhibited commonly by neutered male dogs.

[32] *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cth).

[33] See eg. *Kevin & Jennifer.*

policy and women's human rights and cannot survive the transplantation contended for by the Commissioner[34].

36. The purposive construction for which the Commissioner contends[35] fails to grapple with the universality, indivisibility, interdependence, and interrelatedness of all human rights, which is founded on the inherent dignity of all human beings. As the above analysis on sex and gender identity demonstrates, the human right to equality before the law – the keystone in the protective arch of the human rights framework – is lost for women when room is made for gender-identity rights at the expense of women's sex-based rights. The purposive approach contended for has the effect of turning women's rights into men's rights. Accordingly, to achieve this goal and give effect to CEDAW, men's (viz. male) "gender-identity" rights, to the extent that they exist as a separate and distinct category of rights, and are valid, can only begin where women's sex-based rights end.

2013 AMENDMENTS NOT CONSTITUTIONALLY VALID

External Affairs power

37. Section 51(xxix) of the Constitution, the power to make laws for the peace, order, and good government of the Commonwealth with respect to external affairs, supports the SDA by reason of the fact that the SDA implements CEDAW. As the above analysis on sex and gender-identity demonstrates, the 2013 amendments to the SDA to include protection for "gender-identity" is wholly antithetical to the SDA's primary object and purpose and is not supported by CEDAW and, it follows, the Commonwealth legislative power under s 51(xxix) of the Constitution and, thereby, invalid.

38. The Court should not accede to the Commissioner's (and Applicant's) implicit request to amend the 2013 amending legislation through statutory interpretation: this is the role of Parliament.

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[34] Commissioner's Submissions at [10], [23] and [24].

[35] Commissioner's Submissions at [45] – [46].

Corporations power

39. On the facts of this case, the 2013 amendments to the SDA to include "gender identity" are not supported by s 51(xx) of the Constitution either, which limits the ambit of the SDA to *trading or financial* corporations. The First Respondent did not trade as is required by the ordinary meaning of the constitutional text; in that its trading activities did not form a sufficiently significant proportion of its overall activities as to merit its description as a trading corporation[36].

40. In *Cole v Whitfield*[37], the Court authorised reference to the Convention Debates "for the purpose of identifying the contemporary meaning of language used, the subject to which that language was directed and the nature and objectives of the movement towards federation". Accepting the relevance of historical context to constitutional interpretation, at a minimum, the historical sources[38] suggest that a corporation's purpose is relevant to its characterisation as a trading or financial corporation[39]. Purpose is identified from the corporation's constitution, annual reports, and other objective evidence.

41. Examining these documents[40], it is clear that the independent trading activities of the First Respondent overall, were on an insufficient scale, such as to see it characterised as a trading corporation.

42. In this case, the First Respondent had a barebones utilitarian constitution. Its financial documents showed a corporation with no other real income than that derived from government grants, and a loan to it by a related entity, which properly characterised, is in fact a liability, not income. It suffered repeated losses. The evidence establishes that the App which it provided was free to use without monetisation. While the App offered in-app purchases, it did not charge for them for any length of time, or with a

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[36] See eg. *United Firefighters' Union of Australia v Country Fire Authority* [2015] FCAFC 1; 228 FCR 497 at [135] and *Aboriginal Legal Service of Western Australia (Inc) v Lawrence (No 2)* [2008] WASCA 254; 37 WAR 450 (***Lawrence (No 2)***) at [68(1)] per Steytler P.

[37] [1988] HCA 18; 165 CLR 360 at 385.

[38] See eg. John Quick and Robert Randolph Garran, *The Annotated Constitution of the Australian Commonwealth* (Angus & Robertson, 1901) at 606.

[39] Although it is not the sole or principal criterion of its character as a corporation: *Lawrence (No 2)* at [68(7)] per Steytler P.

[40] See affidavit of Sall Grover filed 24 October 2023 and, also, see affidavit of Sall Grover filed 23 October 2023 at [7], [9], [15] – [17], [35] – [37].

view to making a profit[41]. It did not have the ability to buy physical goods or services within it and did not display advertisements, which were productive of monetisation. It involved no aspect of trade as properly understood, that is, it involved no buying and selling, exchange of commodities, or purchase, sale, or exchange. Its purpose was to "create an exclusively women only platform that was a strong female support network for many different areas of life such as finding a roommate, employment opportunities, friendship, network, commune and engage in conversation while providing a refuge away from men free from harassment, "mansplaining", "dick pics", stalking, aggression and other male patterned online behaviour.[42]

43. In any event, on these facts, s 9(11) of the SDA is not engaged and the SDA has no application to the Respondents.

Inconsistency

44. The Constitution prescribes the priority of conflicting Commonwealth and State laws by s 109. The principle by reference to which inconsistency within the meaning of s 109 of the Constitution is discerned was usefully restated by Gageler J in *Burns v Corbett*[43]:

> Substantially, it amounts to this. When a State law, if valid, would alter, impair or detract from the operation of a law of the Commonwealth Parliament, then to that extent it is invalid. Moreover, if it appears from the terms, the nature or the subject matter of a Federal enactment that it was intended as a complete statement of the law governing a particular matter or set of rights and duties, then for a State law to regulate or apply to the same matter or relation is regarded as a detraction from the full operation of the Commonwealth law and so as inconsistent.

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[41] See affidavit of Sall Grover filed 24 October 2023. See also, *R v Trade Practices Tribunal; Ex parte St George County Council* [1974] HCA 7; 130 CLR 533 at 539 per Barwick CJ, 563 per Gibbs J and 569 per Stephen J; *Re Ku-Ring-Gai Co-Operative Building Society (No 12) Ltd* [1978] FCA 107; 22 ALR 621 at 140 per Bowen CJ and 167 per Deane J.

[42] Affidavit of Sall Grover *filed 23 October* 2023 at [7], [9], [15] – [17] and [36].

[43] [2018] HCA 15; 265 CLR 304 at [85] citing *Victoria v Cth* at 630; and to similar effect *Ex parte McLean* [1930] HCA 12; 43 CLR 472 at 483; and *Stock Motor Ploughs Ltd v Forsyth* [1932] HCA 40; 48 CLR 128 at 136-137.

45. His Honour went on[44] to say:

> There is, of course, no need for a State law to impinge upon the field of legal operation of the Commonwealth law in order for the State law to impair or detract from the operation of the Commonwealth law. Impairment or detraction can result from the practical effect of the State law. It follows that a State law can impair or detract from a Commonwealth law's conferral of jurisdiction under s 76 or s 77(i) or (iii) "by directly or indirectly precluding, overriding or rendering ineffective an actual exercise of that jurisdiction".

46. As the analysis on sex and gender-identity above demonstrates, the state of domestic law in the form of promulgation of self-ID laws in each state (except, presently, NSW) does not support or promote the objects of the SDA. Indeed, self-identification legislation whether it requires surgical intervention or not, are inconsistent with the work that *sex* must necessarily do under the SDA. If *sex* in the SDA were required to extend to include this legal status created by s 24 of the *Births, Deaths and Marriages Registration Act 2003 (Qld)* (**BDM Act**) (and cognate legislation), it would work to alter, impair and detract from the Commonwealth law by reason of the fact that this status is negated by the clear purpose the SDA implements. It would render s 24 of the BDM Act invalid to the extent that impairs and detracts from the clear purpose of the SDA.

47. As the above analysis on sex and gender-identity demonstrates, if s 5 of the SDA were to include the legal construct of sex created by reason of s 24 of the BDM Act and other cognate statutes, the Commonwealth would effectively be precluded by the legislation of a State from classifying the sexes differently, consistent with the natural meaning as ascribed to sex by CEDAW, and as implemented in the SDA.

48. Rapid identification of another's sex is a skill of key social significance, which has a deeply entrenched evolutionary imperative. Changing one's sex marker on identification documents does not render another's ability to discern biological sex redundant. The imposition of penalties to coerce others to pretend a person is not the sex as perceived on observation is repugnant to the observer's natural instinct to determine another's sex. Forcing a person to lie about what they have determined by threat of sanction is an abrogation of their fundamental human rights, and as this case

[44] Citing *APLA Ltd v Legal Services Commissioner (NSW)* [2005] HCA 44 224 CLR 322 at [196]-[209], relevantly at [86].

ably demonstrates, particularly, women's sex-based rights. The exclusion from the female sex class of a male, by reason of the perception of his obvious secondary sex characteristics as derived from his primary sex characteristics inherent to his maleness, is a measure authorised by the provisions of the SDA in implementing CEDAW. If this authorisation were to be abrogated by mere assertion of a State record of legal status, as derived from s 24 of the BDM and other cognate legislation, it impinges upon the field of operation of the Commonwealth law in a manner which substantially impairs its practical effect and is invalid to the extent of that inconsistency.

SPECIAL MEASURES

49. Section 7D of the SDA was introduced by the *Sex Discrimination Amendment Act 1995* (Cth), repealing s 33 of the SDA[45], which provided that an act that would otherwise be discriminatory for the purposes of the SDA was not unlawful if a purpose of that act was to ensure equal opportunity. Thereto, the SDA was structured on an "equal treatment" model under which any difference in treatment was prima facie discriminatory. Section 33 had operated to provice an exemption to the anti-discrimination provisions of the SDA and treated special measures as lawful discrimination.

50. The legislative amendment which introduced s 7D of the SDA[46] moved the special measures provision from the exemptions section of the SDA to the definitions section, ensuring that it was presented and understood as an expression of equality rather than an exception to it.

51. Section 7D of the SDA has two effects:

    a. First, it provides that special measures form part of the threshold question of whether there was discrimination at all, and thus do not require any exemption; and

    b. Second, the focus of the provision shifted from an emphasis on the attainment of equal opportunities, which ignored the historical and structural barriers to

[45] Commonwealth, *Parliamentary Debates*, House of Representatives, 28 June 1995, 2456 (Second Reading Speech, Sex Discrimination Amendment Bill 1995 (Cth)).
[46] Sex Discrimination Amendment Act 1995 (Cth), Schedule, cl. 3.

equality, to measures aimed at achieving substantive equality for men and women.

52. See the discussion in *Jacomb v Australian Municipal Administrative Clerical and Services Union*[47] (***Jacomb***) which remains good law despite the amendments to s 9(10) of the SDA.[48]

53. So as to avoid entrenching existing discrimination, s 7D of the SDA mandates a liberal and substantive interpretation of equality in order to produce equality in fact and outcome. To achieve substantive equality, it is necessary to look at the end result of a practice that purports to treat people equally. In this way, structural barriers that prevent a disadvantaged group from attaining real or genuine equality can be taken into account.

54. The special measures provision in the SDA is limited, in its terms, by a test as to purpose. Section 7D(1)(a) provides that a person may take special measures for the purpose of achieving, relevantly, substantive equality between *men* and *women*. As the submissions hereto contend, that the meaning of *men* and *women* in s 7D(1)(a) of the SDA is correlative with biological sex. Tested this way, it cannot include a transwoman, because transwomen are necessarily men.[49] That is to say, the only qualification of trans women is that they are men.

55. Section 7D(2) provides that that special measure means that a person does not discriminate against another person under any of ss 5, 5A, 5B, 5C, 6, 7, 7AA or 7A by taking the special measures authorised by s 7D(1). This means that if a threshold in s 7D(1) is met, there is no discrimination for the purposes of the SDA, at all.[50] Section 7D(3) makes clear that the achievement of substantive equality need not be the only, or even the primary, purpose of the measures in question. Measures fall fairly within the section if the achievement of substantive equality was one of the purposes for which they were taken. Accordingly, any application of s 7D of the SDA requires an assessment of whether the measure in question was taken for the purpose of achieving

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[47] [2004] FCA 1250; 140 FCR 149.
[48] Cf. Commissioner's Submissions at fn. 54.
[49] Cf Commissioner's Submissions at [50].
[50] Cf. Commissioner's Submissions at [58].

substantive equality. It was accepted by Crennan J in *Jacomb*[51] that the test as to purpose is a subjective test.

56. Section 7D requires the court to assess whether it was reasonable for the person taking the measure to conclude that the measure would further the purpose of achieving substantive equality between men and women. In making this determination the court must at least consider whether the measure taken was one which a reasonable entity in the same circumstances would regard as capable of achieving that goal[52]. The court ought not substitute its own decision, but should consider whether, in the particular circumstances, a measure imposed was one which was proportionate to the goal. Consequently, in addition to the subjective test as to purpose, s 7D is limited by a consideration of the proportionality of the particular measure sought to be employed. This approach is consistent with the approach of the CEDAW Committee to the construction of the phrase 'special measures' within the text of CEDAW: Article 4(1)[53].

57. The evidence filed by the Respondents going to this special measure of a female only digital space speaks loudly of the fact that the disadvantage experienced by women is a continuum of online and offline experiences. See generally:

    a. The affidavit of Sall Grover filed 23 October 2023, where she speaks of the purpose and object of the App, emanating from her own experiences of sexual abuse, and the need for female only spaces to constitute, in effect, an "online women's refuge". The App's experience of repeated attacks by men constitutes in and of itself satisfactory evidence of precisely the male pattern of digital violence, which justifies the special measure achieved by the App;

    c. the affidavit and expert report of Dr Helen Joyce filed 24 October 2023 sets out in detail the many bases for the special measure of women only spaces, most of which have digital equivalencies catered for by the App;

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[51] at [61] and [64].

[52] This limb is palpably satisfied in this case. See eg. the affidavits of Janet Fraser filed 23 October 2023; Azure Rigney filed 23 October 2023; Holly Lawford Smith filed 23 October 2023; Carole Ann 23 October 2023; and Jennifer Mimiette filed 24 October 2023.

[53] *Jacomb* at [43].

d. Anaum Sayed, a Muslim woman, in her affidavit filed 23 October 2023 speaks of her experiences as a woman of faith whose practise of her religion precludes her from discussing issues uniquely and exquisitely female in public and the deficit this occasions her knowledge of female anatomy and health issues;

e. Janet Fraser, in her affidavit filed 23 October 2023, who speaks from her experience of the chilling effect of male intrusion upon women's online spaces in circumstances where women are discussing their bodies, health needs and sex-specific experiences;

f. Holly Lawford Smith, a lesbian, in her affidavit filed 23 October 2023, speaks of the traumatising effects of the colonisation of formerly female only spaces by men, and the coercive transgression of sexual boundaries imposed upon same sex attracted females in the online dating milieu;

g. Samantha Jo Elson, a woman of colour and mother of autistic children isolated by her parenting responsibilities, speaks in her affidavit of filed 24 October 2023 of the benefits of an online digital space for the purposes of community and a refuge away from racially motivated digital violence, vilification and aggression against women of colour;

h. Jennifer Mimiette, a lesbian, who in her affidavit filed 24 October 2023 speaks of the need for an online digital space for same sex attracted females to escape the voyeurism of male sexual fetishists;

i. Victoria Bermudez, in her affidavit filed 23 October 2023, speaks of the refuge and reprieve that an online digital space provided her from her daily experiences in a male dominated industry;

j. Louise Birt, a woman recovering from a relationship breakdown, speaks in her affidavit filed 23 October 2023 of her need to participate in online political discussions free from the scourge of male digital dominance and aggression;

k. Louise Carrigg, a lesbian and recovering alcoholic, in her affidavit filed 23 October 2023, speaks of experience of trauma of raising a disabled son, suffering sexual assault by her husband, her experiences as a recovering alcoholic in women's rehabilitation facilities, and the need for online female

spaces to support women with respect to each of these matters in a way that caters properly to their exquisitely female experience of each;

l. Carole Ann, a lesbian, in her affidavit filed 23 October 2023, speaks of the loss of lesbian spaces and how the trans ideology is forcing same sex attracted women, underground in a manner equivalent to being put back in the closet by reason of self-exclusion;

m. Mardi Sandford, a survivor of sexual assault and homelessness, in her affidavit filed 23 October 2023, speaks about the negative experiences of male intrusion into digital female spaces for survivors of trauma;

n. Alison Hill, living with a traumatic brain injury, in her affidavit filed 23 October 2023, speaks of the effects of her brain injury on her inability to interact in a digital environment where men are present and the need for a safe and respectful space away from male digital dominance and aggression;

o. Azure Rigney, advocate and national convenor for Maternity Choices, in her affidavit filed 23 October 2023, speaks of the exquisite need for female digital spaces to permit the free and necessary personal discussion of gynaecological, obstetric and maternal health issues; and

p. Ciantal Bigornia, in her affidavit filed 23 October 2023, speaks of her experience managing social media accounts in the course of her work and her frequent exposure to derogatory, vitriolic and sexual comments directed at women; the negative impact on her mental health from this experience and her personal self-exclusion from social media. She speaks in comparison of the sanctuary and refuge provided by a female-only digital space free from unwanted male advances and abuse, and how it positively improved her mental health and ability to participate in digital public life.

58. What this evidence makes plain is that the blurring of the distinction between online and offline worlds is unmistakeably real in the digital age. If there is anything that the recent global pandemic ably demonstrated, it was precisely that.

59. A female only digital space by eliminate the barriers to women participating in public life is a necessary special measure to ensure women's substantive equality with men.

This is the purpose of which the First Respondent speaks informing its creation and maintenance of the App[54] and is one harmonious with the objects and purpose of CEDAW, and thereby the SDA, validly framed.

CONCLUSION

60. The Amended Application and Amended Statement of Claim thereby fails and should be dismissed with costs.

Date: 25 October 2023

B. K. Nolan
A. Costin
Counsel for the Respondents

Katherine Deves, Alexander Rashidi Lawyers
Solicitors for the Respondents

[54] Affidavit of Sall Grover filed 23 October 2023 paragraphs 7, 9, 15-17, 35-37.

NOTICE OF FILING

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Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 59
Rule 29.02(1)

Affidavit

No. of 20

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD
First Respondent

SALLY GROVER
Second Respondent

Affidavit of: **Roxanne Tickle**

Address: [redacted]

Occupation: Accountant

Date:

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Roxanne Tickle in support of Application for an Extension of Time in relation to Federal Court Application alleging breach of *Sex Discrimination Act 1984* (Cth) affirmed on 22 December 2022.		1
2	Annexure "**RT-1**", being copy of the complaint filed with the Australian Human Rights Commission on 5 December 2021.	4	4
3	Annexure "**RT-2**", being copy of the Notice of Termination supplied to me by a delegate of the President of the Australian Human Rights Commission dated 5 April 2022.	7	12

Filed on behalf of (name & role of party) Respondent
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[Version 3 form approved 02/05/2019]

Document number	Details	Paragraph	Page
4	Annexure **"RT-3"**, being a copy of the Application filed in the Federal Circuit and Family Court of Australia alleging unlawful discrimination pursuant to the *Sex Discrimination Act* by the Respondents, dated 6 June 2022.	**8**	**16**
5	Annexure **"RT-4"**, being a copy of the notice of discontinuance filed on my behalf in relation to my originating application, dated 4 July 2022.	**10**	**35**

I Roxanne Tickle of [redacted] Accountant affirm:

1. I am the Applicant in this matter.

2. I make this affidavit from my own knowledge and belief and based on information received from my former legal representatives, the Inner City Legal Centre.

3. I make this application in support of my application for the Court to allow me more time than 60 days after the issue of notice under s46PH of the *Sex Discrimination Act 1984* (Cth) (**SDA**) to file my application in this matter.

4. On 5 December 2021, I made a complaint to the Australian Human Rights Commission (**AHRC**) under section 22 of the SDA naming both Giggle for Girls Pty Ltd (**the First Respondent**) and Ms Sally Grover (**the Second Respondent**). Annexed to this affidavit and marked **"RT-1"** is a copy of the Complaint.

5. I stated in my complaint "I believe I was being discriminated against by being provided extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app appears to not recognise transgender women as female. I am legally permitted to identify as female."

6. On 20 January 2022, the AHRC sent a copy of my complaint to the First and Second Respondent by the AHRC. On 3 March 2022, the Feminist Legal Centre (**FLC**) sent a reply to the AHRC on behalf of the Respondents. The response said that the Respondents declined to attend the conciliation convened by the AHRC.

7. On 5 April 2022, a delegate of the President of the AHRC notified me that my complaint was being terminated pursuant to section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (**AHRCA**) because was no reasonable prospect of the matter being settled by conciliation. Annexed to this affidavit and marked **"RT-2"** is a copy of that Notice of Termination.

8. On or about 6 June 2022, my former representatives, the Inner City Legal Centre (**ICLC**) filed an application on my behalf in the Federal Circuit and Family Court of Australia alleging unlawful discrimination pursuant to the SDA by the First and Second Respondents (**Originating Application**). Annexed to this affidavit and marked **"RT-3"** is a copy of that Originating Application.

9. The matter was listed for a Directions Hearing on 8 July 2022 before Judge Laing.

10. I became concerned that I would be unable to afford to pay a costs order if my Court application was unsuccessful. I instructed the ICLC to discontinue my Application. Annexed to this affidavit and marked **"RT-4"** is a copy of this Notice of Discontinuance.

ROXY.

11. After the Notice of Discontinuance was filed, I obtained (limited) funding for adverse costs indemnity available if I am the subject of an adverse costs order in relation to my application. I only obtained the limited funding on 15 November 2022. Once I obtained the indemnity, I decided to commence a fresh application. I now wish to pursue my case in court.

Sworn / Affirmed by the deponent [redacted])
on 22.12.2022)
Before me:)

Signature of deponent

Signature of witness

Héloïse Williams, Solicitor

HELOISE WILLIAMS
Level 6, 600 Bourke Street
Melbourne, VIC. 3000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)

Exhibit Affidavit

No. of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD
MS SALLY GROVER
Respondent

ANNEXURE "RT-1"

A true copy of the Applicant's Complaint to the Australian Human Rights Commission of 5 December 2021.

This exhibit is marked "RT-1" now produced and shown to Ms Roxanne Tickle at the time she affirmed this affidavit.

Before me: 22 12 2022

HELOISE WILLIAMS
Level 6, 600 Bourke Street
Melbourne, VIC. 3000
An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)

19571324_1

RT-1

From: Australian Human Rights Commission
To: [redacted]
Subject: AHRC Make a Complaint Form
Date: Sunday, December 5, 2021 10:11:47 PM

Australian Human Rights Commission

Complaint

Your Details (Your complaint)

Name: **Ms Roxanne Tickle**

Address:
[redacted]

Email: [redacted]
Phone (After hours):
Phone (Business hours): [redacted]
Mobile:
Fax:
TTY:

Would you like a copy of your complaint emailed to you: Yes
(A copy of the complaint form will be sent to [redacted])

Do you require assistance to participate in the complaint process?:
No

Do you require assistance to participate in the complaint process?:
No

Do you have a legal representative or advocate?
No

Who is the complaint about

Organisation Details

Organisation name: **Giggle for Girls Pty Ltd**
ABN: **79 632 152 017**

Address:

Email: **hello@giggle-girl.com**
Phone (Business hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Provider of smart phone application

Do you want to add another respondent?
Yes

2nd Respondent's Details
Name: **Sall Grover**

Address:

Email: **sall@giggle-girl.com**
Phone (Business hours):
Phone (After hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Giggle for Girls Pty Ltd's Chief Executive Officer

What are you complaining about

I have been discriminated against because of my:

age: **No**
disability: **No**
association to a person with a disability: **No**
use of an assistance animal or disability aid or because I have a carer: **No**
sex: **No**
pregnancy: **No**
marital or relationship status: **No**
family responsibilities: **No**
sexual orientation: **No**
gender identity: **Yes**
What is your gender identity? **Female (more specifically ... a transgender woman)**

intersex status: **No**
race (including colour, national origin, descent, ethnicity and immigrant status): **No**
trade union activity (employment only): **No**
criminal record (employment only): **No**
religion (employment only): **No**
social origin (employment only) : **No**

Please state the other reason(s):
I believe that I am being discriminated against by being provided extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.

When did the alleged event(s) happen?
I became aware that I was being treated differently in September 2021.

Reason(s) for delay

What happened?
What Happened to Me 1. In February 2021, I downloaded Giggle from the Apple iPhone App Store and completed its in-app registration process. 2. Giggle is a social media app. It is marketed as "the female app". 3. The app registration process included supplying my mobile phone number, choosing a user name and taking a "selfie" from within the app. 4. Giggle's provider is Giggle for Girls Pty Ltd, a company based in Queensland. 5. Giggle for Girls Pty Ltd's CEO is apparently Sall Grover. 6. Giggle is marketed to, and is apparently used by, a global user base. 7. Giggle's terms clearly stipulate that app users must be female. 8. I am a NSW resident. 9. Although my sex assigned at birth was male, my birth certificate has been reissued confirming that my sex is female. I also have a gender confirmation letter from my physician

confirming that my gender is female. 10. Giggle apparently uses so-called bio-metric gender verification software to determine whether the registering user is "male" or "female" based on their "selfie", as well as using human beings in a secondary process to verify the software's gender determination. Presumably the gender verification software attempts to determine the applicant's sex assigned at birth, rather than their current legal sex or gender. 11. The so-called bio-metric gender verification software and human beings apparently both determined that my gender was female as I was permitted to complete my app registration. 12. Between February 2021 and September 2021, I occasionally opened the app and read randomly selected posts. 13. In late September 2021 I noticed that although I was able to read posts made by other users, I was unable to make comments on any of these posts, read any comments made by other app users or make any posts myself. I contacted Giggle through its in-app contact form to alert them of my restricted use. I received no response. 14. In early October 2021, I sent a follow up email to the main contact email address (sall@giggle-girl.com) listed on the app's website (joinagiggle.com). I received no response. 15. A week later I sent an email to the main contact email address (sall@giggle-girl.com) and the generic welcome email address (hello@giggle-girl.com). I received a response requesting that I supply my mobile phone number so the problem could be looked into. I provided my mobile telephone number as requested. I received no further response. 16. Over the next 4 weeks I sent a further 6 emails following up my query. I received no response to any of them. 17. I sent another follow up query through the in-app contact form. I received no response. 18. The singular emailed response that I did receive from Giggle, apparently from Sall Grover, contained an email signature panel with a mobile telephone number. 19. In late October 2021, I sent a text message to this number. I received no response. 20. In late October 2021, I made an unanswered phone call to this number. I decided to not leave a voice mail message. The voice mail system was one where the audio message is converted to a text message. After the trouble I had gone to to try and talk with the app provider, I thought direct voice communication was the best option. The following morning, I missed a returned phone call from this number. The caller did not leave a message. I tried calling the phone number again 1 week later and was unable to get through. 21. I considered at that point that I had gone over and above a reasonable level of effort attempting to make contact with the provider of the app. 22. My use of the app does not appear to be terminated, but vastly restricted. When I attempt to access certain app functionality, I am presented with a "User Blocked" error message. I am presented with the same error message if I attempt to purchase Premium Features in the app. 23. It appears that Giggle's provider only wishes cisgender women and transgender men to register for and use the app, apparently deliberately intending to exclude transgender women, cisgender men, and non-binary people. 24. Tweets published by Sall Grover's Twitter handle (@salltweets) appear to show a poor understanding of sex and gender, often using the terms interchangeably. The Twitter handle commonly refers to transgender

women as men and transgender men as women. 25. I have felt increasingly uncomfortable by announcements made by Sall Grover, both on Twitter and in interviews with various media outlets, both local and international, as well as posts made within the Giggle app itself by Sall Grover and other app users. 26. Transphobic comments posted in the app's social media discussion threads appear to not be moderated, and in fact appear to be encouraged, both within the app, and on Twitter, by Sall Grover. 27. I believe that I am being discriminated against because of my gender identity. I believe that Giggle and Sall Grover have decided in error that I am male and have declined to grant me full use of the app. If this is true, I am uncertain why I have been permitted to retain partial use of the app. How Does it Happen to me and Others? As a resident of NSW, along with other protected categories of people including those based on race, disability, sex, age, sexual orientation, intersex status, marital status and others, I am meant to be protected from discrimination based on my gender identity by legislation at both the state and federal level. This safety net appears to me to have some holes in it. Discrimination based on gender identity still seems to be fair game. It is often left to transgender and gender diverse people and their direct allies to be reactive at the time and place of any discrimination. It appears still to be an accepted form of bigotry amongst many people. Everybody has the right to be a bigot, somebody once said, and many people are continuing to make use of that right. It is the bigotry that need not hide its face. I can't recall hearing of an actual group of people that actively discriminates based on age. I have been unable to locate a Facebook page or website for the Ku Klux Klan in Australia. Yet groups that favour discrimination against people based on their gender identity appear to have no need to hide their face. They have Facebook pages. They have websites. They have email addresses. Here is a sample of Australian groups that have no fear in condoning and/or encouraging discrimination against transgender and gender diverse people: • Coalition for Biological Reality • LGB Alliance Australia • Save Womens Sport Australasia • Women Speak Tasmania • IWD Brisbane Meanjin • Feminist Legal Clinic Inc. Not only that, individuals with platforms, including journalists, politicians, business people, lawyers and others have no qualms about speaking out against transgender and gender diverse people and encouraging their readers, listeners and/or constituents to discriminate against transgender and gender diverse people. They don't campaign for legislative change, mind you, they just openly encourage discrimination. Because they are seemingly allowed to. In fact, for some of them it often appears to be their raison d'être. Here are a handful of examples: • Sall Grover: https://www.youtube.com/watch?v=4bqXNXQwgpk • Associate Professor Holly Lawford-Smith: https://www.youtube.com/watch?v=9GeTliLuoUs • Peta Credlin AO: https://www.skynews.com.au/opinion/peta-credlin/erasing-women-nsw-woman-of-the-year-could-be-awarded-to-a-trans-woman/video/a2c774ae1882c3d6fd9a79b256d4c36d • The Honourable Mark Latham MLC: https://www.news.com.au/national/nsw-act/politics/mark-latham-seeks-to-outlaw-ability-to-identify-as-

transgender-and-rejects-gender-fluidity/news-story/217dca3f008fb57ee825a4ef69a1156c • Senator Amanda Stoker: https://qnews.com.au/queensland-lnp-senator-calls-for-support-to-fight-transgender-agenda/ • Senator Pauline Hanson: https://www.starobserver.com.au/news/pauline-hanson-says-transgender-children-should-be-taken-from-parents/197282 • The Honourable Scott Morrison MP: https://www.sbs.com.au/news/gender-whisperers-scott-morrison-criticised-for-hateful-tweet-about-trans-students/513b958c-4dce-49a7-85ea-ebc9d3c6792d • Kirralie Smith: https://twitter.com/KirralieS/status/1159717711317889024?s=20 • The Honourable Barnaby Joyce MP: https://omny.fm/shows/drive-with-tom-elliott/barnaby-joyce-fires-back-at-mother-of-transgender • Senator Claire Chandler: https://fb.watch/9H_jLrMCxx/ • Annie Kia: https://anniekia.net/10-uncritical-allegiance-the-harms-of-queer-ideology/ • Katherine Deves: https://www.youtube.com/watch?v=U6sor5C3Y60 • Bernard Lane: https://www.smh.com.au/business/companies/substantial-distress-press-watchdog-rebukes-the-australian-for-reporting-on-gender-issues-20210903-p58oi7.html These are just some names that spring to mind and some easily found relevant material. I could go on and on if I had the time and resources. To the best of my knowledge, none of the individuals mentioned above have any qualifications or experience in psychology, psychiatry, paediatrics, gender counselling or indeed any relevant area of primary or ancillary health care. Why is it, then, that they believe that they get to control the public narrative about our lives? What is the point of having legislation to protect us from discrimination when it appears that so many people with such prominent platforms have no regard for it? Not only that, but they openly and unashamedly encourage their readers, listeners and/or constituents to flout the legislation as well. Transgender and gender diverse people, along with their closely connected allies, are often left to defend themselves against incidences of discrimination. Often, they overlook the discrimination due to the huge amount of emotional labour and stress involved in following up and prosecuting the discrimination. This is overwhelmingly the case when Sistergirls and Brotherboys are involved, as it usually is with any other instances of intersectionalism. My complaint relates to what I believe has been, and continues to be, discrimination against me, but I have also witnessed other trans women and their allies ejected from Giggle without repercussion. I have witnessed other instances of discrimination and verbal assault based on gender identity. People usually say nothing, put their head down and attempt to carry on with their lives with a concomitant decline in their mental health. We have often tended to attempt to live with discrimination in the past because obtaining a favourable outcome, although it may be better for our mental health in the long term, is only good for our mental health if we are successful … when we are successful. Until then, if it indeed happens, it is detrimental to our mental health. So we usually put our head down and try to move on. Acts of discrimination against transgender and gender diverse people happen far too frequently, without penalty. Why is it

that trans and gender diverse people and their allies are often left alone to fight to defend their already existing legal rights? Must we be the ones to take legal action each and every time it happens? Must we? Surely there must be a better way?

Do you intend to email the Commission supporting information?
No

Upload Document File ID:

Other Information

How do you think the complaint could be resolved?
Giggle management should seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females". Giggle should extend full app functionality to me and all other people that identify as female as long as they comply with all other app terms & conditions.

Have you complained about this to another organisation?
No

Were you referred to us by another organisation?
Yes

Organisation's name: **Queensland Human Rights Commission**

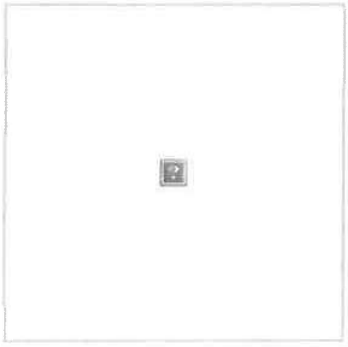

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Exhibit Affidavit

No. of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD
MS SALLY GROVER
Respondent

ANNEXURE "RT-2"

A true copy of the Notice of Termination provided to the Applicant by a delegate of the President of the Australian Human Rights Commission on 5 April 2022.

This exhibit is marked "RT-2" now produced and shown to Ms Roxanne Tickle at the time she affirmed this affidavit.

Before me: 22.12.2022

HELOISE WILLIAMS
Level 6, 600 Bourke Street
Melbourne, VIC. 3000
An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)

RT-2

AUSTRALIAN HUMAN RIGHTS COMMISSION

FILE NO: 2021-25534

Between

Roxanne Tickle
Complainant

AND

Giggle for Girls Pty Ltd
(ABN 79 632 152 017)
First Respondent

Sall Grover
Second Respondent

NOTICE OF TERMINATION

Issued under section 46PH(2) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA).

This complaint alleging unlawful discrimination under the *Sex Discrimination Act 1984* (Cth) has been terminated under section 46PH(1B)(b) of the AHRCA on the ground that I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

Section 46PO(1) of the AHRCA provides that if a complaint has been terminated under section 46PH(1B)(b) of the AHRCA, an affected person may make an application to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) alleging unlawful discrimination by one or more of the respondents to the terminated complaint. The FCFCOA and FCA can award costs against either party in proceedings under section 46PO of the AHRCA.

Reasons for this decision are provided in Attachment A.

A copy of the complaint is provided at Attachment B.

DATED 5 April 2022.



Hyun Joo Lee
Delegate of the President

Australian Human Rights Commission

ATTACHMENT A

Our ref: 2021-25534

5 April 2022

Ms Roxanne Tickle
Sent by email only: [redacted]

Dear Ms Tickle

Termination of the complaint

I am writing to advise you of my decision regarding your complaint to the Australian Human Rights Commission (the Commission) against Giggle for Girls Pty Ltd (Giggle) and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth).

The complaint

Documents

Your complaint totals 7 pages, a copy of which was emailed to you on 20 January 2022. Another copy is provided with this letter marked as Attachment B.

Respondent contact

A copy of your complaint was provided to the respondents on 20 January 2022. The Commission received a reply from the respondents on 3 March 2022. The Commission emailed you a copy of this reply on 8 March 2022.

My decision

Under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA) the President must terminate a complaint if satisfied that there is no reasonable prospect of the matter being settled by conciliation.

I note that the Commission shared information with both parties about the Commission's complaint handling and conciliation processes. I understand that Giggle and Ms Grover declined to participate in conciliation. Accordingly, it did not appear that the complaint could be resolved by conciliation.

I have therefore decided to terminate the complaint under section 46PH(1B)(b) of the AHRCA as I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

Possible further action

The AHRCA says that after a complaint is terminated, the person affected by the alleged discrimination may be able to apply to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) to have the allegations decided by the court.

If you apply to the FCFCOA or the FCA, you will need to attach the following documents to the application:

- this letter (Attachment A);
- the enclosed Notice of Termination; and
- the enclosed copy of the complaint (Attachment B).

Any application to the court must be made within 60 days of the date on the Notice of Termination.

If a matter proceeds to court, the FCFCOA and FCA can award costs against either party. Information about the court or the court process is available from a court registry or from its websites at www.fcfcoa.gov.au and www.fedcourt.gov.au.

Yours sincerely



Hyun Joo Lee
Delegate of the President

Exhibit Affidavit

No. of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD
MS SALLY GROVER
Respondent

ANNEXURE "RT-3"

A true copy of the Originating Application filed on behalf of the Applicant by the Inner City Legal Centre dated 6 June 2022.

This exhibit is marked "RT-3" now produced and shown to Ms Roxanne Tickle at the time she affirmed this affidavit.

Before me: 22.12.2022

HELOISE WILLIAMS
Level 6, 600 Bourke Street
Melbourne, VIC. 3000
An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)

19571306_1

RT-3

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (FCFCOA) on 6/06/2022 2:33:17 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Application - Alleging Unlawful Discrimination
File Number:	SYG808/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ABN 79 632 152 017 & ANOR
Registry:	SYDNEY REGISTRY- FEDERAL CIRCUIT AND FAMILY COURT - FEDERAL LAW
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised

Dated: 6/06/2022 3:29:59 PM AEST

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that *might* be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Amended

IN THE FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA
REGISTRY: SYDNEY

File number: .....

Roxanne Tickle
Applicant

Giggle for Girls Pty Ltd
First Respondent

Sally Grover
Second Respondent

Application – Human Rights

Type of application

This application alleges unlawful discrimination under section 46PO of the *Australian Human Rights Commission Act 1986.*

First court date

This application is listed for hearing at (court location): .....

Court date and time (registry staff to insert): at am/pm.

All parties or their legal representatives should attend this hearing. Default orders may be made if any party fails to attend. The Court may hear and determine all interlocutory or final issues, or may give directions for the future conduct of the proceeding.

(for) Registrar
Date: ...../...../.....

Filed on behalf of Roxanne Tickle
Prepared by Phoebe Mountain Lawyer's code 69211
Name of law firm Inner City Legal Centre
Address for service in Australia PO Box 25
Potts Point State NSW Postcode 1335
Email phoebe@iclc.org.au
Tel 02 9332 1966 Fax Attention Phoebe Mountain

Part A – Orders sought

1. Pursuant to subsection 46PO(3A) of the *Australian Human Rights Commission Act 1986*, an application can only be brought to the Court in certain circumstances. Please select the most appropriate:	☐ I request leave of the Court to make this application *If leave of the Court is requested, an Affidavit is to be filed specifying the reasons the Applicant considers that leave ought to the granted.* ☐ The President of the Australian Human Rights Commission has indicated that the subject matter of the complaint involves an issue of public importance that should be considered by the Federal Court of Australia or the Federal Circuit and Family Court of Australia. ☒ The President of the Australian Human Rights Commission has indicated that there is no reasonable prospect of the matter being settled by conciliation

2. Final orders sought by applicant/s *State precisely each order sought by way of final relief. Examples of remedies include an apology from the respondent, employment or re-employment, and compensation.* *If you seek compensation you must provide details of how much compensation you are claiming and how the amount has been calculated; for example, loss of income*	1. Orders under s 46PO (4) of the *Australian Human Right Commission Act 1986 (Cth)* (AHRCA) as set out below. a. A declaration that the First and Second Respondents committed unlawful discrimination against the Applicant in breach of ss 5B and 22 of the *Sex Discrimination Act 1984 (Cth)* (**SDA**), when they refused to allow, or limited, the Applicant access to the First Respondent's online Platform available through a mobile phone application (the **App**) from in or about September 2021. b. A declaration that the Second Respondent committed unlawful discrimination against the Applicant in breach of ss 5B and 22 of the *Sex Discrimination Act 1984 (Cth)* (**SDA**), when she made statements to the effect of one or more of the following: i. The Second Respondent considered transgender women, including the Applicant, to be male; ii. Transgender women, including the Applicant to be not women; iii. Transgender women, including the Applicant, to be men claiming to be women; and iv. Transgender women, including the Applicant, are wrong to identify as women. c. An order requiring the First and/or Second Respondents to pay damages to the Applicant by way of compensation for non-economic loss suffered by the applicant because of

	the conduct of the First and/or Second Respondent. d. The First and/or Second Respondent publish a written apology to the Applicant for discriminating against her on the App and in publications and platforms to be identified. e. The First Respondent not to prevent the Applicant access to the App as is provided to other users. f. The Second Respondent undertake education regarding gender identity and the impact of discrimination on the ground of gender identity on the transgender and gender diverse population. g. The First Respondent publish an agreed summary of the reasons on the App. 2. Certification that it was reasonable to engage counsel to appear for the Applicant in the proceedings pursuant to Rule 22.15 *Federal Circuit and Family Court of Australia (Division 2) (General Law) Rules 2021* (Cth) **(Rules)**. 3. Costs in accordance with section 214 of the *Federal Circuit and Family Court of Australia Act* 2021 (Cth) **(FCFCA)** or section 43 of the *Federal Court of Australia Act 1976* (Cth). 4. Interest up to the date of judgment in accordance with section 211 of the *FCFCA*. 5. Interest on judgment in accordance with section 212 of the *FCFCA*. 6. Such other orders as the Court thinks necessary.

3. Interlocutory, interim or procedural orders sought by applicant/s *Complete only if interlocutory, interim or procedural orders are sought*	1. An order pursuant to r22.03 of the Federal Circuit and Family Court Rules, that the maximum costs that may be recovered by each party on a party/party basis be limited to $20,000.

Part B – Grounds of Application

4. What discrimination are you complaining of? *The unlawful discrimination must:* *(a) be the same or substantially the same as the discrimination that was the subject of the complaint terminated by the Australian Human Rights Commission, or* *(b) arise out of the same or substantially the same acts, omissions or practices that were the subject of complaint.*	1. Discrimination by the First and Second Respondents against the Applicant on the ground of her gender identity by limiting her access to the social media application, Giggle and making certain statements about the Applicant as set out in the Orders (above).
5. Under what Act is the discrimination you are complaining of unlawful?	☐ the *Age Discrimination Act 2004* ☐ the *Disability Discrimination Act 1992* ☐ the *Racial Discrimination Act 1975* ☒ the *Sex Discrimination Act 1984*
6. State all sections of the Act that are relevant to this claim	Section 5B, *Sex Discrimination Act 1984* Section 22, *Sex Discrimination Act 1984*

Part C – The applicant/s

7. Full name(s) *Attach extra page for any additional applicants*	☐ Mr ☐ Mrs ☒ Ms	Family name:	Tickle
		Given names:	Roxanne

5



8. Home or contact address (including postcode)	[redacted]			
9. Telephone/Fax No.	Business hours:	[redacted]	After hours:	[redacted]
	Fax no:			

1. Are you over 18 years?	☒ Yes ☐ No
11. What is your first language? *This includes languages such as Sign and Auslan*	English
12a. Do you need an interpreter at the hearing?	☐ Yes ☒ No
12b. If yes, please state language or type	
13. Do you have any special requirements? *If yes, please give details; for example, wheelchair access, hearing loop, presence of personal assistant or carer.*	☐ Yes ☒ No

Part D – The respondent/s

14. What is your relationship to the person or organisation against whom you bring this application?	☐ Employee of person/organisation ☐ Former employee of person/organisation ☐ Co-employee ☒ Customer of person/organisation ☐ Other (please specify)

Part E – Extension of time

15. Do you need an extension of time? *You must complete this section if your application and claim is made more than 60 days after the date of issue of written notice of the termination of the complaint by the President of the Australian Human Rights Commission. If yes, please provide reasons.*	☐ Yes ☒ No

Part F – Required documents

15. These documents must accompany your application and claim	☒ A copy of your original complaint to the Australian Human Rights Commission (if available). ☒ The notice of termination of complaint given by the President of the Australian Human Rights Commission

Signature of applicant/s or lawyer

P Mountain

Signed by (print name/s) Phoebe Mountain

☐ the applicant/s or ☒ lawyer for the applicant/s

Date: 6/6/2022

IMPORTANT NOTICE TO RESPONDENT/S

To the respondent (name):

Giggle for Girls Pty Ltd

of (address):

[redacted]

To the respondent (name):

Sally Grover

of (address):

[redacted]

You should seek legal advice about this application. You may file a response. If you file a response, you must file and serve the response within 28 days of receiving this application. If you do not file a response, you must file and serve a notice of address for service before the hearing.

Form approved by the Chief Judge pursuant to Subrule 2.04(1) for the purpose of subrule 26.03(1)

HR_Application_0921V1

7

AUSTRALIAN HUMAN RIGHTS COMMISSION

FILE NO: 2021-25534

Between

Roxanne Tickle
Complainant

AND

Giggle for Girls Pty Ltd
(ABN 79 632 152 017)
First Respondent

Sall Grover
Second Respondent

NOTICE OF TERMINATION

Issued under section 46PH(2) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA).

This complaint alleging unlawful discrimination under the *Sex Discrimination Act 1984* (Cth) has been terminated under section 46PH(1B)(b) of the AHRCA on the ground that I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

Section 46PO(1) of the AHRCA provides that if a complaint has been terminated under section 46PH(1B)(b) of the AHRCA, an affected person may make an application to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) alleging unlawful discrimination by one or more of the respondents to the terminated complaint. The FCFCOA and FCA can award costs against either party in proceedings under section 46PO of the AHRCA.

Reasons for this decision are provided in Attachment A.

A copy of the complaint is provided at Attachment B.

DATED 5 April 2022.

Hyun Joo Lee
Delegate of the President

Australian Human Rights Commission

ATTACHMENT A

Our ref: 2021-25534

5 April 2022

Ms Roxanne Tickle
Sent by email only: [redacted]

Dear Ms Tickle

Termination of the complaint

I am writing to advise you of my decision regarding your complaint to the Australian Human Rights Commission (the Commission) against Giggle for Girls Pty Ltd (Giggle) and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth).

The complaint

Documents

Your complaint totals 7 pages, a copy of which was emailed to you on 20 January 2022. Another copy is provided with this letter marked as Attachment B.

Respondent contact

A copy of your complaint was provided to the respondents on 20 January 2022. The Commission received a reply from the respondents on 3 March 2022. The Commission emailed you a copy of this reply on 8 March 2022.

My decision

Under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA) the President must terminate a complaint if satisfied that there is no reasonable prospect of the matter being settled by conciliation.

I note that the Commission shared information with both parties about the Commission's complaint handling and conciliation processes. I understand that Giggle and Ms Grover declined to participate in conciliation. Accordingly, it did not appear that the complaint could be resolved by conciliation.

I have therefore decided to terminate the complaint under section 46PH(1B)(b) of the AHRCA as I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

Possible further action

The AHRCA says that after a complaint is terminated, the person affected by the alleged discrimination may be able to apply to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) to have the allegations decided by the court.

If you apply to the FCFCOA or the FCA, you will need to attach the following documents to the application:

- this letter (Attachment A);
- the enclosed Notice of Termination; and
- the enclosed copy of the complaint (Attachment B).

Any application to the court must be made within 60 days of the date on the Notice of Termination.

If a matter proceeds to court, the FCFCOA and FCA can award costs against either party. Information about the court or the court process is available from a court registry or from its websites at www.fcfcoa.gov.au and www.fedcourt.gov.au.

Yours sincerely

Hyun Joo Lee
Delegate of the President

ATTACHMENT B

From: Australian Human Rights Commission
To: [redacted]
Subject: AHRC Make a Complaint Form
Date: Sunday, December 5, 2021 10:11:47 PM

Australian Human Rights Commission

Complaint

Your Details (Your complaint)

Name: **Ms Roxanne Tickle**

Address: [redacted]

Email: [redacted]
Phone (After hours):
Phone (Business hours): [redacted]
Mobile:
Fax:
TTY:

Would you like a copy of your complaint emailed to you: Yes
(A copy of the complaint form will be sent to [redacted])

Do you require assistance to participate in the complaint process?:
No



Do you require assistance to participate in the complaint process?:
No

Do you have a legal representative or advocate?
No

Who is the complaint about

Organisation Details

Organisation name: **Giggle for Girls Pty Ltd**
ABN: **79 632 152 017**

Address:

Email: **hello@giggle-girl.com**
Phone (Business hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Provider of smart phone application

Do you want to add another respondent?
Yes

2nd Respondent's Details
Name: **Sall Grover**

Address:

Email: **sall@giggle-girl.com**
Phone (Business hours):
Phone (After hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Giggle for Girls Pty Ltd's Chief Executive Officer

What are you complaining about

I have been discriminated against because of my:

age: **No**
disability: **No**
association to a person with a disability: **No**
use of an assistance animal or disability aid or because I have a carer: **No**
sex: **No**
pregnancy: **No**
marital or relationship status: **No**
family responsibilities: **No**
sexual orientation: **No**
gender identity: **Yes**
What is your gender identity? **Female (more specifically ... a transgender woman)**

intersex status: **No**
race (including colour, national origin, descent, ethnicity and immigrant status): **No**
trade union activity (employment only): **No**
criminal record (employment only): **No**
religion (employment only): **No**
social origin (employment only) : **No**

Please state the other reason(s):
I believe that I am being discriminated against by being provided extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.

When did the alleged event(s) happen?
I became aware that I was being treated differently in September 2021.

Reason(s) for delay

What happened?
What Happened to Me 1. In February 2021, I downloaded Giggle from the Apple iPhone App Store and completed its in-app registration process. 2. Giggle is a social media app. It is marketed as "the female app". 3. The app registration process included supplying my mobile phone number, choosing a user name and taking a "selfie" from within the app. 4. Giggle's provider is Giggle for Girls Pty Ltd, a company based in Queensland. 5. Giggle for Girls Pty Ltd's CEO is apparently Sall Grover. 6. Giggle is marketed to, and is apparently used by, a global user base. 7. Giggle's terms clearly stipulate that app users must be female. 8. I am a NSW resident. 9. Although my sex assigned at birth was male, my birth certificate has been reissued confirming that my sex is female. I also have a gender confirmation letter from my physician



confirming that my gender is female. 10. Giggle apparently uses so-called bio-metric gender verification software to determine whether the registering user is "male" or "female" based on their "selfie", as well as using human beings in a secondary process to verify the software's gender determination. Presumably the gender verification software attempts to determine the applicant's sex assigned at birth, rather than their current legal sex or gender. 11. The so-called bio-metric gender verification software and human beings apparently both determined that my gender was female as I was permitted to complete my app registration. 12. Between February 2021 and September 2021, I occasionally opened the app and read randomly selected posts. 13. In late September 2021 I noticed that although I was able to read posts made by other users, I was unable to make comments on any of these posts, read any comments made by other app users or make any posts myself. I contacted Giggle through its in-app contact form to alert them of my restricted use. I received no response. 14. In early October 2021, I sent a follow up email to the main contact email address (sall@giggle-girl.com) listed on the app's website (joinagiggle.com). I received no response. 15. A week later I sent an email to the main contact email address (sall@giggle-girl.com) and the generic welcome email address (hello@giggle-girl.com). I received a response requesting that I supply my mobile phone number so the problem could be looked into. I provided my mobile telephone number as requested. I received no further response. 16. Over the next 4 weeks I sent a further 6 emails following up my query. I received no response to any of them. 17. I sent another follow up query through the in-app contact form. I received no response. 18. The singular emailed response that I did receive from Giggle, apparently from Sall Grover, contained an email signature panel with a mobile telephone number. 19. In late October 2021, I sent a text message to this number. I received no response. 20. In late October 2021, I made an unanswered phone call to this number. I decided to not leave a voice mail message. The voice mail system was one where the audio message is converted to a text message. After the trouble I had gone to to try and talk with the app provider, I thought direct voice communication was the best option. The following morning, I missed a returned phone call from this number. The caller did not leave a message. I tried calling the phone number again 1 week later and was unable to get through. 21. I considered at that point that I had gone over and above a reasonable level of effort attempting to make contact with the provider of the app. 22. My use of the app does not appear to be terminated, but vastly restricted. When I attempt to access certain app functionality, I am presented with a "User Blocked" error message. I am presented with the same error message if I attempt to purchase Premium Features in the app. 23. It appears that Giggle's provider only wishes cisgender women and transgender men to register for and use the app, apparently deliberately intending to exclude transgender women, cisgender men, and non-binary people. 24. Tweets published by Sall Grover's Twitter handle (@salltweets) appear to show a poor understanding of sex and gender, often using the terms interchangeably. The Twitter handle commonly refers to transgender

women as men and transgender men as women. 25. I have felt increasingly uncomfortable by announcements made by Sall Grover, both on Twitter and in interviews with various media outlets, both local and international, as well as posts made within the Giggle app itself by Sall Grover and other app users. 26. Transphobic comments posted in the app's social media discussion threads appear to not be moderated, and in fact appear to be encouraged, both within the app, and on Twitter, by Sall Grover. 27. I believe that I am being discriminated against because of my gender identity. I believe that Giggle and Sall Grover have decided in error that I am male and have declined to grant me full use of the app. If this is true, I am uncertain why I have been permitted to retain partial use of the app. How Does it Happen to me and Others? As a resident of NSW, along with other protected categories of people including those based on race, disability, sex, age, sexual orientation, intersex status, marital status and others, I am meant to be protected from discrimination based on my gender identity by legislation at both the state and federal level. This safety net appears to me to have some holes in it. Discrimination based on gender identity still seems to be fair game. It is often left to transgender and gender diverse people and their direct allies to be reactive at the time and place of any discrimination. It appears still to be an accepted form of bigotry amongst many people. Everybody has the right to be a bigot, somebody once said, and many people are continuing to make use of that right. It is the bigotry that need not hide its face. I can't recall hearing of an actual group of people that actively discriminates based on age. I have been unable to locate a Facebook page or website for the Ku Klux Klan in Australia. Yet groups that favour discrimination against people based on their gender identity appear to have no need to hide their face. They have Facebook pages. They have websites. They have email addresses. Here is a sample of Australian groups that have no fear in condoning and/or encouraging discrimination against transgender and gender diverse people: • Coalition for Biological Reality • LGB Alliance Australia • Save Womens Sport Australasia • Women Speak Tasmania • IWD Brisbane Meanjin • Feminist Legal Clinic Inc. Not only that, individuals with platforms, including journalists, politicians, business people, lawyers and others have no qualms about speaking out against transgender and gender diverse people and encouraging their readers, listeners and/or constituents to discriminate against transgender and gender diverse people. They don't campaign for legislative change, mind you, they just openly encourage discrimination. Because they are seemingly allowed to. In fact, for some of them it often appears to be their raison d'être. Here are a handful of examples: • Sall Grover: https://www.youtube.com/watch?v=4bqXNXQwgpk • Associate Professor Holly Lawford-Smith: https://www.youtube.com/watch?v=9GcTliLuoUs • Peta Credlin AO: https://www.skynews.com.au/opinion/peta-credlin/erasing-women-nsw-woman-of-the-year-could-be-awarded-to-a-trans-woman/video/a2c774ae1882c3d6fd9a79b256d4c36d • The Honourable Mark Latham MLC: https://www.news.com.au/national/nsw-act/politics/mark-latham-seeks-to-outlaw-ability-to-identify-as-

transgender-and-rejects-gender-fluidity/news-story/217dca3f008fb57ee825a4ef69a1156c • Senator Amanda Stoker: https://qnews.com.au/queensland-lnp-senator-calls-for-support-to-fight-transgender-agenda/ • Senator Pauline Hanson: https://www.starobserver.com.au/news/pauline-hanson-says-transgender-children-should-be-taken-from-parents/197282 • The Honourable Scott Morrison MP: https://www.sbs.com.au/news/gender-whisperers-scott-morrison-criticised-for-hateful-tweet-about-trans-students/513b958c-4dce-49a7-85ea-ebc9d3c6792d • Kirralie Smith: https://twitter.com/KirralieS/status/1159717711317889024?s=20 • The Honourable Barnaby Joyce MP: https://omny.fm/shows/drive-with-tom-elliott/barnaby-joyce-fires-back-at-mother-of-transgender • Senator Claire Chandler: https://fb.watch/9H_jLrMCxx/ • Annie Kia: https://anniekia.net/10-uncritical-allegiance-the-harms-of-queer-ideology/ • Katherine Deves: https://www.youtube.com/watch?v=U6sor5C3Y60 • Bernard Lane: https://www.smh.com.au/business/companies/substantial-distress-press-watchdog-rebukes-the-australian-for-reporting-on-gender-issues-20210903-p58oi7.html These are just some names that spring to mind and some easily found relevant material. I could go on and on if I had the time and resources. To the best of my knowledge, none of the individuals mentioned above have any qualifications or experience in psychology, psychiatry, paediatrics, gender counselling or indeed any relevant area of primary or ancillary health care. Why is it, then, that they believe that they get to control the public narrative about our lives? What is the point of having legislation to protect us from discrimination when it appears that so many people with such prominent platforms have no regard for it? Not only that, but they openly and unashamedly encourage their readers, listeners and/or constituents to flout the legislation as well. Transgender and gender diverse people, along with their closely connected allies, are often left to defend themselves against incidences of discrimination. Often, they overlook the discrimination due to the huge amount of emotional labour and stress involved in following up and prosecuting the discrimination. This is overwhelmingly the case when Sistergirls and Brotherboys are involved, as it usually is with any other instances of intersectionalism. My complaint relates to what I believe has been, and continues to be, discrimination against me, but I have also witnessed other trans women and their allies ejected from Giggle without repercussion. I have witnessed other instances of discrimination and verbal assault based on gender identity. People usually say nothing, put their head down and attempt to carry on with their lives with a concomitant decline in their mental health. We have often tended to attempt to live with discrimination in the past because obtaining a favourable outcome, although it may be better for our mental health in the long term, is only good for our mental health if we are successful … when we are successful. Until then, if it indeed happens, it is detrimental to our mental health. So we usually put our head down and try to move on. Acts of discrimination against transgender and gender diverse people happen far too frequently, without penalty. Why is it

that trans and gender diverse people and their allies are often left alone to fight to defend their already existing legal rights? Must we be the ones to take legal action each and every time it happens? Must we? Surely there must be a better way?

Do you intend to email the Commission supporting information?
No

Upload Document File ID:

Other Information

How do you think the complaint could be resolved?
Giggle management should seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females". Giggle should extend full app functionality to me and all other people that identify as female as long as they comply with all other app terms & conditions.

Have you complained about this to another organisation?
No

Were you referred to us by another organisation?
Yes

Organisation's name: **Queensland Human Rights Commission**

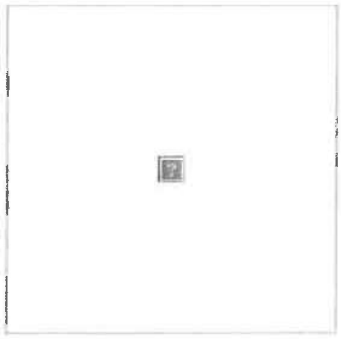

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Exhibit Affidavit

No. of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD
MS SALLY GROVER
Respondent

ANNEXURE "RT-4"

A true copy of the Notice of Discontinuance filed on the Applicant's behalf by the Inner City Legal Centre and dated 4 July 2022.

This exhibit is marked "RT-4" now produced and shown to Ms Roxanne Tickle at the time he affirmed this affidavit.

Before me: 22.12.2022

HELOISE WILLIAMS
Level 6, 600 Bourke Street
Melbourne, VIC. 3000
An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)

19571291_1

RT-4

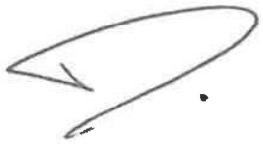
NOTICE OF FILING

This document was lodged electronically in the FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA (FCFCOA) on 4/07/2022 12:47:54 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Notice of discontinuance
File Number:	SYG808/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ABN 79 632 152 017 & ANOR
Registry:	SYDNEY REGISTRY- FEDERAL CIRCUIT AND FAMILY COURT - FEDERAL LAW





Dated: 4/07/2022 3:01:59 PM AEST Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Notice of Discontinuance

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – RULE 10.02
Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 – RULE 13.01

Please type or print clearly and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any questions.

Use this form if you are no longer seeking all or some of the orders previously sought by you.

Filed in:

☒ Federal Circuit and Family Court of Australia
☐ Family Court of Western Australia
☐ Other (specify) _____

Type of proceedings:

☐ Family law proceedings
☐ Migration proceedings
☒ General federal law proceedings
☐ Other (specify) _____

Filed on behalf of:

Full name: ROXANNE TICKLE

Client ID _____

File number/appeal number SYG 808/2022

Filed at

Filed on

Court date _____

NOTE:

- This notice must be served on any other party, including any independent children's lawyer as soon as practicable after filing.
- Filing this notice does not prevent any other party from continuing with their case, and obtaining orders, including for costs.
- If this notice relates to an appeal in the appellate jurisdiction of the Federal Circuit and Family Court of Australia (Division 1) the notice must be filed in the National Appeal Registry.

Part A About the parties

1

APPLICANT 1 / APPELLANT 1

Family name as used now: TICKLE

Given names: ROXANNE

APPLICANT 2 / APPELLANT 2

Family name as used now:

Given names:

RESPONDENT 1

Family name as used now: GIGGLE FOR GIRLS PTY LTD (ABN 79 632 152 017)

Given names:

RESPONDENT 2

Family name as used now: GROVER

Given names: SALLY

Part B About the independent children's lawyer (if appointed)

2 Independent children's lawyer family name

Given names

Firm name

Part C Details of discontinuance – family law proceedings only

3 Which application / response / reply / notice of appeal / notice do you wish to discontinue in whole or in part?

MARK [X] ALL BOXES THAT APPLY

☐	Initiating Application (Family Law)	filed on	/ /
☐	Response to Initiating Application (Family Law)	filed on	/ /
☐	Reply	filed on	/ /
☐	Application in a Proceeding	filed on	/ /
☐	Response to Application in a Proceeding	filed on	/ /
☐	Application for Divorce	filed on	/ /
☐	Response to Divorce	filed on	/ /
☐	Application – Contravention	filed on	/ /
☐	Application – Contempt	filed on	/ /
☐	Application – Enforcement	filed on	/ /
☐	Notice of Appeal	filed on	/ /
☐	Application in an Appeal	filed on	/ /
☐	Notice Disputing Itemised Cost Accounts	filed on	/ /
☐	Other [specify]	filed on	/ /

4 Do you want to discontinue the whole of the application/response/reply/notice of appeal/notice?

☒ **Yes** **GO TO PART E**

☐ **No** State which parts (orders sought / grounds of appeal) of the application / response/ reply / notice of appeal / notice you wish to discontinue. Do this by listing the orders / grounds of appeal by the number used in the application / response / reply / notice of appeal / notice.
(Do not set out the orders / grounds of appeal in full)

Part D Details of discontinuance – migration and general federal law proceedings only

5 Which document do you wish to discontinue?

Title of application / response / reply / notice of appeal / notice **Application - alleging unlawful discrimination**

Date document was filed:

3/06/2022

6 Which of the orders you applied for do you want to discontinue?

☒ **All of them** **GO TO PART E**

☐ **Some of them** State which parts (orders sought / grounds of appeal) of the application / response / reply / notice of appeal / notice you wish to discontinue. Do this by listing the orders / grounds of appeal by the number used in the application / response / reply / notice of appeal / notice.
(Do not set out the orders / grounds of appeal in full)

2

Part E Signature of person filing this notice

Signed	Date
	4 07 / 2022

This notice was signed by

- ☐ applicant
- ☐ respondent
- ☐ appellant
- ☒ lawyer for the applicant
- ☐ lawyer for the respondent
- ☐ lawyer for the appellant

This notice was prepared by

- ☐ applicant
- ☐ respondent
- ☐ appellant
- ☒ lawyer for the applicant
- ☐ lawyer for the respondent
- ☐ lawyer for the appellant

Anastasia Kalos - Inner City Legal Centre
69211
PRINT NAME AND LAWYER'S CODE

Approved by Chief Justice/Chief Judge pursuant to rule 15.21 of the Family Law Rules and rule 2.04 of the General Federal Law Rules 0921V1

3

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	13/09/2023 5:39:47 PM AEST
Date Accepted for Filing:	13/09/2023 5:39:50 PM AEST
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

Affidavit of: **Roxanne Tickle**

Address: [redacted]

Occupation: Accountant

Date: 13 September 2023

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Roxanne Tickle in support of Application alleging breach of the *Sex Discrimination Act 1984* (Cth) by the Respondents affirmed on 13 September 2023.	1-41	1-7
2	Annexure "**RT-1**", being a copy of my reissued Queensland Birth Certificate and Change of Name Certificate dated 19 May 2018.	5	8-10
3	Annexure "**RT-2**", being a copy of my reissued Queensland Birth Certificate dated 18 September 2020.	7	11-12

Filed on behalf of (name & role of party) Roxanne Tickle, the Applicant
Prepared by (name of person/lawyer) Tinashe Makamure
Law firm (if applicable) Barry Nilsson Lawyers
Tel +61 3 9909 6365 Fax
Email tinashe.makamure@bnlaw.com.au/corrina.dowling@bnlaw.com.au
Address for service (include state and postcode) Level 9/1 O'Connell Street, Sydney, NSW 2000

[Version 3 form approved 02/05/2019]

Document number	Details	Paragraph	Page
4	Annexure "**RT-3**", being a copy of Ms Grover's 'X' post that I responded to between 14 and 15 January 2021.	9	13-15
5	Annexure "**RT-4**", being a copy of the Giggle for Girls Pty Ltd App Terms of Use dated 2 December 2020.	11	16-26
6	Annexure "**RT-5**", being a copy of the Giggle for Girls Pty Ltd in-app contact form filled out by the Applicant.	17	27-30
7	Annexure "**RT-6**", being a copy of the text message sent to Ms Grover on 30 October 2021.	28	31-32
8	Annexure "**RT-7**", being a copy of an email chain with Ms Grover dated between 4 October 2021 and 5 November 2021.	31	33-36
9	Annexure "**RT-8**", being a copy of the complaint filed with the Australian Human Rights Commission dated 5 December 2021.	33	37-44
10	Annexure "**RT-9**", being a copy of some of the statements that Ms Grover has posted to 'X'.	36	45-60
11	Annexure "**RT-10**", being a copy of online publications, newspaper articles and blog pieces that Ms Grover has authored or been interviewed for.	36	61-68
12	Annexure "**RT-11**", being a copy of the online posts made about the various television and podcast interviews that Ms Grover has participated in.	36	69-76
13	Annexure "**RT-12**", being a copy of some of the online messages I have received from people and online comments made about myself and this case.	39	77-99
14	Annexure "**RT-13**", being a copy of the merchandise a supporter of Ms Grover is selling through Etsy.	40	100-136

I, Roxanne Tickle of [redacted] Accountant, affirm:

1. I am the Applicant in this matter.

2. I make this affidavit from my own knowledge and belief and rely on the information stated in my previous affidavit that was filed in this Court on 22 December 2022.

3. At birth, the sex that I was assigned was male.

4. Since about June 2017, I have lived as a female. Later in 2017, I started to use the female name 'Roxy Tickle'.

5. On 19 May 2018, my Queensland birth certificate was reissued to change my legal name from [redacted] Tickle' to 'Roxanne Lily Tickle'.

   Annexed to this affidavit and marked "**RT-1**" is a copy of the reissued Queensland Birth Certificate and Change of Name Certificate.

6. In October 2019, I underwent gender affirming surgery to affirm my gender as a woman.

7. On 18 September 2020, upon receiving all necessary supporting documents, my birth certificate was reissued by the Queensland Registry of Births, Deaths and Marriages to confirm that my sex is female.

   Annexed to this affidavit and marked "**RT-2**" is a copy of my reissued birth certificate.

8. In or around January 2021, I had first became aware of Ms Sally Grover (the **Second Respondent**) when I came across her profile on the social media platform 'X' (which was formerly known as 'Twitter' at the time). When I first came across Ms Grover's 'X' profile, I noticed that she posted a lot of content about transgender issues and made several statements that she did not consider transgender women to be females.

9. During 14 to 15 January 2021, I first interacted with Ms Grover when we exchanged a number of 'tweets' through the social media platform 'X' (formerly known as 'Twitter'). I responded to a post she made about women-only spaces on 14 January 2021.

   Annexed to this affidavit and marked "**RT-3**" is a copy of Ms Grover's Twitter post that I responded to between 14 and 15 January 2021.

10. During or after these online interactions with Ms Grover, I discovered that she had created an App named 'Giggle' (**Giggle App** or **App**), a social media platform for females. I decided that, being a female myself, I wanted to try out the Giggle App.

11. In February 2021, I downloaded the Giggle App from the Apple iPhone App Store. I noted the term of the Giggle App that stated that users must be female.

    Annexed to this affidavit and marked "**RT-4**" is a copy of the Giggle for Girls Pty Ltd App Terms of Use dated 2 December 2020.

12. Upon downloading the Giggle App, I completed the in-app registration process by providing my mobile phone number, choosing a username and taking a photograph of myself (a 'selfie') within the Giggle App. My 'selfie' was analysed by artificial intelligence (**AI**) software to determine whether I was male or female. The AI software was provided within the Giggle App by a third party called 'Kairos'. The Giggle App stated that a person from its organisation would then view my 'selfie' to verify the determination made by the AI software. Both the AI software and the person who examined my 'selfie' correctly determined that I was female and I was granted access to the Giggle App.

13. The Giggle App consisted of two main sections:

    a. A social media section titled 'Giggle Talk', which was similar to the way 'X', or 'Twitter' as it was then known, operated; and

b. Another section comprised of small groups called 'Giggles'. Users were able to join a 'Giggle' to discuss specific topics of interest such as cooking, travel, health etc.

14. Between February 2021 and July/August/September 2021, I periodically opened the Giggle App to peruse a selection of posts in the social media section 'Giggle Talk'. I had access to set up a profile in the 'Giggles' section of the App to join small interest groups, but I found that there were not many users to connect with. I tried joining a few different 'Giggles' during this period and lost interest.

15. In about July, August or September 2021, I noticed that my access to the Giggle App had been restricted, although I cannot be certain from when this occurred. I was able to read content posted by others, though I was unable to post content, read comments made by other users or comment on any posts. When I attempted to access these functions on the Giggle App, I was presented with a 'User Blocked' error message.

16. During July, August and September 2021, I began to notice that a significant number of posts being made on the Giggle App were about transgender women and contained transphobic content. Transphobic content did not appear to be discouraged.

17. In or around late September 2021, I contacted Giggle (the **First Respondent**) through its in-app contact form to alert it of my restricted use. I did not receive a response.

Annexed to this affidavit and marked "**RT-5**" is a copy of the Giggle in-app contact form.

18. On 4 October 2021 at 1:11 pm, I sent a follow up email to sall@giggle-girl.com and hello@giggle-girl.com, the First Respondent's 'welcome' email address.

19. On 8 October 2021 at 10:32 pm, I received a response email from Ms Grover, the founder and CEO of Giggle. Ms Grover requested that I supply my mobile number so that she could personally look into my restricted use issue within the Giggle App.

20. On 11 October 2021 at 10:58 pm, I provided my mobile number to Ms Grover as requested. I did not receive a response.

21. On 16 October 2021 at 8:28 pm, I sent a follow up email to Ms Grover. I did not receive a response.

22. On 20 October 2021 at 9:19 pm, I sent another follow up email to Ms Grover and informed her that I was still receiving the 'User Blocked' error message on the Giggle App. I did not receive a response.

23. On 22 October 2021 at 9:33 pm, I sent another follow up email to Ms Grover. I did not receive a response.

24. On 28 October 2021, I attempted to purchase the Premium Features in the App, but I was still presented with the 'User Blocked' error message in the Giggle App. I submitted a bug report within the Giggle App.

25. On 28 October 2021 at 10:59 pm, I sent another follow up email to Ms Grover and explained that I did not have access to pay for the premium features within the Giggle App. I did not receive a response.

26. On 29 October 2021, I made a phone call to the mobile number contained in Ms Grover's email signature in the email she had sent to me on 8 October 2021. My call was not answered. I did not leave a voice mail message.

27. On 29 October 2021 at 7:00 pm, I sent another follow up email to Ms Grover and explained that I had tried to call her earlier that day. I suggested that I would try call her again on 3 November 2021. I did not receive a response.

28. On the morning of 30 October 2021, I missed a returned phone call from Ms Grover. She did not leave me a voice mail message. At 4:35pm on the same day, I sent Ms Grover a text message that I would be available on 1 November 2021 to talk with her. I received no response.

    Annexed to this affidavit and marked "**RT-6**" is a copy of this text message.

29. On 5 November 2021 at approximately 5:00 pm, I tried calling Ms Grover's mobile number again, but did not receive an answer.

30. On 5 November 2021 at 5:48 pm, I sent another follow up email to Ms Grover and explained that I had tried to call her again. I received no further response.

31. Between the period of 4 October 2021 and 5 November 2021, I sent a total of 8 follow up emails to Ms Grover regarding my restricted access issue on the Giggle App. Only once did I receive a response.

    Annexed to this affidavit and marked "**RT-7**" is a copy of the email chain with Ms Grover.

32. I believe that the Respondents removed my access to the Giggle App because I am a transgender woman.

33. On 5 December 2021, I made a complaint to the Australian Human Rights Commission (**AHRC**) under section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**) naming the Respondents.

    Annexed to this affidavit and marked "**RT-8**" is a copy of the complaint.

34. On 20 January 2022, the AHRC sent a copy of my complaint to the Respondents.

35. On 1 April 2022, the AHRC advised me that the Respondents had declined to participate in conciliation to resolve the matter.

36. Following these events, Ms Grover has publicly made statements about me and the complaint that I made to the AHRC via the following forums:

    a. "X" (Formerly known as 'Twitter').

       Annexed to this affidavit and marked "**RT-9**" is a copy of some of the statements that have been posted to "X" by Ms Grover;

    b. Written online publications, newspaper articles and blog pieces.

       Annexed to this affidavit and marked "**RT-10**" is a copy of publications that have interviewed Ms Grover or have been authored by Ms Grover; and

    c. Television, podcast and online interviews.

       Annexed to this affidavit and marked "**RT-11**" are copies of the posts made about these interviews involving Ms Grover.

37. Many of Ms Grover's posts about me and the AHRC complaint that I made against her have contained false information, including that I am a man and that I have harassed her.

38. The above events involving the Giggle App and Ms Grover have had a significant impact on my life. The respondents' unilateral decision that I am not a woman, and therefore cannot access the Giggle App, has upset me greatly and has resulted in me having to go to great lengths to prove that I am a woman. It has been exhausting and draining to do so.

39. Ms Grover's public statements about me and this case have been distressing, demoralising, embarrassing, draining and hurtful. This has led to individuals posting hateful comments towards me online and indirectly inciting others to do the same. Ms Grover's online posts reach large domestic and international audiences, which has led to the scale of online hate towards me being enormous. This has consumed my life outside of my work and sport, which has led to me experiencing constant anxiety and occasional suicidal thoughts.

    Annexed to this affidavit and marked "**RT-12**" is a copy of some of the online messages I have received and some of the online comments that have been made about me and this case.

40. I have also seen a supporter of Ms Grover selling merchandise about this case on the website 'Etsy'. Much of the merchandise is transphobic and contains a number of awful

statements related to me and this case. Profits from the merchandise are being donated to Ms Grover's crowdfund campaign.

Annexed to this affidavit and marked "**RT-13**" is a copy of the merchandise that a supporter of Ms Grover has been selling online.

41. I have been regularly taking anti-anxiety medication since May 2020 to assist with managing the emotional aspects of my gender transition. Ms Grover's actions and the online hate I have received from her supporters, who are actively working towards stopping me from living as a woman, compounds my extant anxiety. I earnestly wish to wean myself off my anti-anxiety medication now that my gender transition is nearly complete, though I am fearful that my anxiety attacks will return if I do so, due to the stress and anxiety I have experienced from Ms Grover's actions and this legal case.

Affirmed by the deponent)
at c/- Barry Nilsson Lawyers)
Level 9, 1 O'Connell Street)
Sydney, NSW, 2000)
on 13.09.2023)
Before me:

Roxy.

Signature of deponent

Signature of witness

Tinashe Makamure of
Level 9, 1 O'Connell Street
Sydney, NSW, 2000
an Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (NSW)

This affidavit was signed and affirmed by the deponent by audio visual link. The authorised affidavit taker has used an electronic copy of the affidavit in completing the jurat requirements for the purposes of the *Electronic Transactions Act 2000* (NSW).

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-1"

A true copy of the Applicant's Queensland Birth Certificate and Change of Name certificate dated 19 May 2018.

This is the exhibit marked "RT-1" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

Queensland
BIRTH CERTIFICATE

REGISTRATION NUMBER [redacted]

CHILD	
Name	*Roxanne Lily*
Sex	*Male*
Date of Birth	[redacted]
Place of Birth	*Mater Misericordiae Mothers' Hospital, South Brisbane*
FATHER	
Name and surname	[redacted] *Tickle*
Occupation	*Soldier*
Age and birthplace	*24 years Moree, New South Wales*
MOTHER	
Name and maiden surname	[redacted]
Age and birthplace	*21 years Warialda, New South Wales*
PREVIOUS CHILDREN OF RELATIONSHIP	
Names and ages	
INFORMANT	
Name, description or relationship, and residence	[redacted] *Mother, 27 Wagtail Street, Inala*
REGISTRAR	
Name	*L.A.Stevens*
Date of registration	*5 December 1969*
Place of registration	*Brisbane*
NOTES (if any)	*Refer to back of this certificate for History Record*

CAUTION: A person who unlawfully alters a Certificate issued by the Registry of Births, Marriages, or Deaths, whether by erasure, obliteration, removal, addition or otherwise is guilty of a CRIME, and liable to the punishment by law. (See Sections 488 of the "Criminal Code").

REGISTRAR-GENERAL Brisbane QUEENSLAND

I, David John, Registrar-General, certify that the above is a true copy of particulars recorded in a Register kept in the General Registry at Brisbane

Dated: 19 May 2018 Registrar-General

N.B. Not Valid Unless Bearing the Authorised Seal and Signature of the Registrar-General

8377387916

Queensland

CHANGE OF NAME CERTIFICATE

REGISTRATION NUMBER [redacted]

NAME REGISTERED IN CHANGE OF NAME REGISTER	
Name and surname	*Roxanne Lily Tickle*
FORMER NAME/s REGISTERED	
Name and surname	*(no names registered)*
Name and surname	
Name and surname	
Name and surname	
BIRTH PARTICULARS (AS PROVIDED TO REGISTRAR)	
Name registered at birth or adoption	[redacted] *Tickle*
Date of Birth	[redacted]
Place of Birth	*Mater Misericordiae Mothers' Hospital, South Brisbane*
REGISTRAR	
Name	*D. John*
Date of registration	*18 May 2018*
Place of registration	*Brisbane*
NOTES (If any)	

CAUTION: Whosoever shall unlawfully alter any Certified Copy of an entry in any Register of Births, Marriages, Deaths or Change of Name, whether by erasure, obliteration, removal, addition or otherwise is guilty of a CRIME, and liable to the punishment by law provided in that behalf. (See Sections 488 and 488 of the "Criminal Code".)

This certificate confirms the registration of a change of a persons name only. It does not confirm birth details. If verification of birth details is required, it should be obtained from other documents.

I, David John, Registrar-General, certify that the above is a true copy of particulars recorded in a Register kept in the General Registry at Brisbane

REGISTRAR-GENERAL Brisbane QUEENSLAND

Dated: 18 May 2018 Registrar-General

N.B. Not Valid Unless Bearing the Authorised Seal and Signature of the Registrar-General

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-2"

A true copy of the Applicant's Queensland Birth Certificate dated 18 September 2020.

This is the exhibit marked "RT-2" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

Queensland
BIRTH CERTIFICATE

REGISTRATION NUMBER [redacted]

CHILD	
Name and Surname	*Roxanne Lily Tickle*
Sex	*Female*
Date of Birth	[redacted]
Place of Birth	*Mater Misericordiae Mothers' Hospital, South Brisbane*
MOTHER	
Name and surname	[redacted] *Tickle*
Maiden surname	[redacted]
Occupation	*Not Stated*
Age and birthplace	*21 years Warialda, New South Wales*
FATHER	
Name and surname	[redacted] *Tickle*
Occupation	*Soldier*
Age and birthplace	*24 years Moree, New South Wales*
PREVIOUS CHILDREN OF RELATIONSHIP	
Names and ages	
INFORMANT	
Name, description or relationship, and residence	[redacted] *Mother, 21 Wagtail Sureet, Inala, Queensland*
REGISTRAR	
Name	*M. Leonard*
Date of registration	*18 September 2020*
Place of registration	*Brisbane*
NOTES (if any)	*Refer to back of this certificate for History Record*

CAUTION: A person who unlawfully alters a Certificate issued by the Registry of Births, Marriages, or Deaths, whether by erasure, obliteration, removal, addition or otherwise is guilty of a CRIME, and liable to the punishment by law. (See Sections 488 of the "Criminal Code").

REGISTRAR-GENERAL Brisbane QUEENSLAND

I, Marcus Leonard, Acting Registrar-General, certify that the above is a true copy of particulars recorded in a Register kept in the General Registry at Brisbane

Dated: 18 September 2020

Acting Registrar-General

N.B. Not Valid Unless Bearing the Authorised Seal and Signature of the Registrar-General

1213221839

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-3"

A true copy of Ms Grover's "X" post dated 14 January 2021.

This is the exhibit marked "RT-3" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

← Post

Sall Grover ✓
@sallitweets

The McIver Ladies Baths "female & children only" status should not be changed because of an onslaught of abuse.

Please sign this petition so that women's hard won rights of female spaces continue in this beautiful space.



[illegible]petitions.com
Petition Keep McIver's Ladies Baths Women & Children Only
McIver's Ladies Baths have operated as a women-only space for over 100 years. This tradition is now under attack from ...

7:11 PM · Jan 14, 2021

144 Reposts **6** Quotes **365** Likes **4** Bookmarks

Post your reply! Reply

Roxy Tickle [redacted] · Jan 14, 2021
Your tweet is a little misleading. Trans women, who are morally and legally women, have been going to the baths, without problem, for years. As trans women are legally women, should you wish to have trans women excluded from women's spaces you need to talk to the government.

Sall Grover ✓ @sallitweets · Jan 15, 2021
They have been - because, as management said, transitioned trans women were welcome. But that wasn't good enough for the "activists". They want it to be self ID. That's what started this whole thing.

Roxy Tickle [redacted] · Jan 15, 2021
How do you define "transitioned" though? The law defines it as somebody that has commenced transitioning, not completed transitioning. I don't know if you have thought about it from our side, but it is actually terrifying to go swimming as a trans woman.

Sall Grover ✓ @sallitweets · Jan 15, 2021
I have a lot of empathy for that, I really do. But changing the rules of female spaces isn't the answer. It's not right or fair. A lot of women enjoy female spaces because of the camaraderie & safety. I feel like trans women should have that with trans women, in these situations.


Roxy Tickle [redacted] · Jan 15, 2021
How do you define "transitioned" though? The law defines it as somebody that has commenced transitioning, not completed transitioning. I don't know if you have thought about it from our side, but it is actually terrifying to go swimming as a trans woman.
3
Sall Grover @sallttweets · Jan 15, 2021
I have a lot of empathy for that, I really do. But changing the rules of female spaces isn't the answer. It's not right or fair. A lot of women enjoy female spaces because of the camaraderie & safety. I feel like trans women should have that with trans women, in these situations.
2
3
Roxy Tickle [redacted] · Jan 15, 2021
It feels really weird that the majority of women that I meet accept and treat me as a woman. Happily. Openly. But not all. How should I deal with that? Ignore the majority?
1
Sall Grover @sallttweets · Jan 15, 2021
If I was to meet you IRL, I'd treat you how you want to be treated. We live in a society, it's important to be kind to people. I would never cause you a problem in person.
But this does not negate the need for female spaces.
1
2
Roxy Tickle [redacted] Jan 15, 2021
Thank you for answering my questions. A lot of people in here just shout which doesn't achieve very much. I agree with you about female only spaces. I gave up my beloved hockey for 24 years because I couldn't deal with male change rooms any longer.
1
1
Sall Grover @sallttweets · Jan 15, 2021
I completely agree - yelling & fighting gets us no where. There are solutions, & they're right in front of us, but we all need to at least chat civilly to be able to acknowledge them. I'm sorry you had to give up hockey. It sucks. I wouldn't expect you to go in a male change room
1
1
Roxy Tickle [redacted] · Jan 15, 2021
I started playing hockey again last year. Very tentatively. Terrified at times. I wasn't sure how I would be received. We have women in my team from 13 to 60 and they all LOVE me. Extraordinary and novel ... for me.

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-4"

A true copy of Giggle for Girls Pty Ltd App Terms of Use dated 2 December 2020.

This is the exhibit marked "RT-4" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

GIGGLE FOR GIRLS PTY LTD – APP TERMS

FAQ Contact Us join giggle

Welcome to Giggle for Girls!

Our online platform (**Platform**) is operated by Giggle for Girls Pty Ltd (ABN 79 632 152 017) or its successors and assignees (**we, our** or **us**). It is available through our mobile application (**App**) and may be available through other addresses or channels.

Please read these Terms (defined below) carefully as they set out your rights and responsibilities when using our Platform. You'll need to stop using our Platform if you do not agree to these Terms. We may vary these Terms by publishing the varied terms on our Platform. We recommend you check our Platform regularly to ensure you are aware of our current Terms.

We provide the services set out on our Platform. Our Platform allows females to connect with one another on the giggle app either in public or private spaces.

Accepting these terms

By downloading our App or otherwise accessing and/or using our Platform, you and each person, entity or organisation using our Platform (**you**): (a) warrant to us that you have reviewed these terms and conditions, including our Privacy Policy (available on our Platform) (**Terms**) and you understand them; (b) warrant to us that you have the legal capacity to enter into a legally binding agreement with us; and (c) agree to use our Platform in accordance with these Terms.

You must be 16 years of age or older to create an Account (defined below).

You must be female to use the App.

If you access or download our App from the Apple App Store, you agree to Apple's Licensed Application End User License Agreement and any usage rules set forth in the App Store Terms of Service. If you access or download our App from the Google Play Store, and you agree to the Android, Google Inc. Terms and Conditions including the License Agreement and Terms of Application.

We may use Google Maps/Earth mapping services, including Google Maps APIs. Your use of Google Maps/Earth is subject to the Google Maps/Google Earth Additional Terms of Service.

Collection notice

We collect personal information about you in order to enable you to access and use our Platform, to connect with other users on our Platform and for other purposes set out in our Privacy Policy.

We may disclose that information to third party service providers who help us deliver our services (including information technology service providers, data storage, web-hosting and server providers, professional advisors, third party payment processors and our business partners) or as required by Law. If you do not provide this information we may not be able to provide you with access to our Platform. In certain circumstances, we may disclose your personal information to third parties located, or who store data, outside Australia.

Our Privacy Policy contains further information about: (a) how we store and use your personal information; (b) how you can access and seek correction of your personal information; (c) how you can make a privacy-related complaint; and (d) our complaint handling process.

By providing personal information to us, you consent to us collecting, holding, using and disclosing your personal information in accordance with our Privacy Policy.

We do not sell user data.

Registering

You must register on our Platform and create an account (**Account**) to access the functionality of our Platform.

You must provide basic information when registering for an Account including your name or pseudonum, your mobile number and a selfie. You must be female to create an Account.

We use third party software, Kairos, in the Account creation process. If you have difficulty creating an Account, please contact us using the email address at the end of these Terms and we will assist you to create an Account.

You will be able to select a unique username for your Giggle Talk Account. Your username does not need to identify you and it should not be your email address. You may apply to verify your unique username to establish authenticity of your identity by contacting us through the app and providing us with identification documents.

You must provide accurate, current and complete information during the registration process and you must update such information to keep it current and complete. The selfie required to complete registration must be authentically taken at the time of registration, of the person that owns the phone number, and photos of photos will not be accepted.

You are responsible for keeping your Account details confidential, your phone device secure, and you will be liable for all activity on your Account, including purchases made using your Account details, whether or not you authorised such activities or actions.

You will immediately notify us of any unauthorised use of your Account.

At our sole discretion, we may refuse to allow any person to register or create an Account.

Acceptable use of our Platform

Giggle for Girls is a place where female users feel comfortable expressing themselves, sharing information, and communicating with one another. You must access and use our Platform only for legal, authorised, and acceptable purposes. You will not use (or assist others in using) our Platform in ways that: (a) violate, misappropriate, or infringe our rights, our users' rights, or other rights, including privacy, publicity, Intellectual Property, or other proprietary rights; (b) are illegal, obscene, defamatory, threatening, intimidating, harassing, hateful, racially or ethnically offensive, or instigate or encourage conduct that would be illegal or otherwise inappropriate, including promoting violent crimes; (c) involve publishing falsehoods, misrepresentations, or misleading statements; (d) impersonate someone; (e) involve sending illegal or impermissible communications, such as bulk messaging; or (f) involve any non-personal use of our Platform.

You may not interfere with the Services in any way, such as by accessing the services through automated means; by hacking the services; by accessing without authorisation areas of the Services that are protected by technical measures designed to prevent unauthorised access: by testing the vulnerability of the services; by impersonating Giggle or the Services; by accessing the Services for any purpose that competes with the interests of Giggle; by spamming the users of the services, by failing to respond to communications or requests from Giggle; or through any other type of interference with the Services or Giggles relationship with others.

Premium versions

We offer in-app purchases for premium versions of our Platform, which you may purchase for the advertised fee (**Fee**) in advance of accessing that functionality. You must pay the Fee via your chosen payment method and as offered by the application store from which you download the App, such as the Apple App Store or the Google Play Store. The Fee is non-refundable. To the maximum extent permitted by Law, there will be no refunds for any unused features of in-app purchases (or part thereof).

Licence to use our Platform

We grant you a personal, non-exclusive, royalty-free, revocable, worldwide, non-transferable licence to use our Platform in accordance with these Terms. All other uses are prohibited without our prior written consent.

Information contained on our Platform

Our Platform contains materials and information for you to read, explore, and interact with (**Content**). The Content is not comprehensive and is for general information purposes only. It does not take into account your specific needs, objectives or circumstances, and is not advice. While we use reasonable

attempts to ensure the accuracy and completeness of the Content, we make no representation or warranty regarding it, to the extent permitted by Law. The Content is subject to change without notice. However, we do not undertake to keep our Platform up-to-date and we are not liable if any Content is inaccurate or out-of-date.

Intellectual Property Rights

Unless otherwise indicated, we own or licence all rights, title and interest (including Intellectual Property Rights) in our Platform and all of the Content. Your use of our Platform and your use of and access to any Content does not grant or transfer to you any rights, title or interest in relation to our Platform or the Content.

You must not, without the prior written consent of ourselves or the owner of the Content (as applicable):

- copy or use, in whole or in part, any Content;
- reproduce, retransmit, distribute, disseminate, sell, publish, broadcast or circulate any Content to any third party; or
- breach any Intellectual Property Rights connected with our Platform, including (without limitation) by:
- altering or modifying any of the Content;
- causing any of the Content to be framed or embedded in another website; or
- creating derivative works from the Content.

Content you upload

We encourage you to interact with our Platform! You may be permitted to post, upload, publish, submit or transmit relevant information and content, including reviews (User Content) on our Platform. You are encouraged to initiate communication on our Platform, and this communication is one of your purposes for using our Platform (Purpose).

Your Purpose may be to start a discussion, post an advertisement, or propose a transaction, in one of our many subcategories set out on our Platform. By posting a Purpose in any category excluding giggle talk, you may receive responses from up to 6 other girls, who have all consented to being added to a new giggle (Giggle). Once your Giggle is created, you can communicate with the other girls in your Giggle. You may view posts on the Giggle Talk feed without creating a profile. To join the discussion you will need to create a profile and register a unique username.

By making available any User Content on or through our Platform, you grant to us a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free licence to use the User Content, with the right to use, view, copy, adapt, modify, distribute, license, transfer, communicate, publicly display, publicly

perform, transmit, stream, broadcast, access, or otherwise exploit such User Content on, through, or by means of our Platform.

You agree that Giggle or it's service providers or partners may display advertising with your content and otherwise monetise your content without compensation to you.

You agree that you are solely responsible for all User Content that you make available on or through our Platform. You represent and warrant that:

· you are either the sole and exclusive owner of all User Content or you have all rights, licences, consents and releases that are necessary to grant to us the rights in such User Content as contemplated by these Terms; and

· neither the User Content nor the posting, uploading, publication, submission or transmission of the User Content, including information shared in a Giggle, or our use of the User Content on, through or by means of our Platform will infringe, misappropriate or violate another user's rights, or a third party's Intellectual Property Rights, or rights of publicity or privacy, or result in the violation of any applicable Law or regulation.

We do not endorse or approve and are not responsible for any User Content. We may, at any time at our sole discretion, remove any User Content.

Our Platform may contain links to websites operated by third parties. Unless expressly stated otherwise, we do not control, endorse or approve and are not responsible for the content on those websites. You should make your own investigations with respect to the suitability of those websites.

We may, at any time and without notice to you, discontinue our Platform, in whole or in part. We may also exclude any person from using our Platform, at any time at our sole discretion. We are not responsible for any Liability you may suffer arising from or in connection with any such discontinuance or exclusion.

Notice regarding Apple

· To the extent that you are using or accessing our Platform on an iOS device, you further acknowledge and agree to the terms of this clause. You acknowledge that these Terms are between you and us only, not with Apple Inc. (Apple), and Apple is not responsible for our Platform and any content available on our Platform.

· Apple has no obligation to furnish you with any maintenance and support services with respect to our Platform.

· If our App fails to conform to any applicable warranty, you may notify Apple and Apple will refund the purchase price of our App to you. To the maximum extent permitted by applicable Law, Apple will have no other warranty obligation whatsoever with respect to our App and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be our responsibility.

- Apple is not responsible for addressing any claims by you or any third party relating to our App or your use of our App, including but not limited to:

- product liability claims;

- any claim that our App fails to conform to any applicable legal or regulatory requirement; and

- claims arising under consumer protection or similar legislation.

- Apple is not responsible for the investigation, defence, settlement and discharge of any third-party claim that our App infringes that third party's Intellectual Property Rights.

- You agree to comply with any applicable third-party terms when using our App.

- Apple and Apple's subsidiaries are third-party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary of these Terms.

- You hereby represent and warrant that:

- you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and

- you are not listed on any U.S. Government list of prohibited or restricted parties.

Warranties, disclaimers and indemnity

To the extent permitted by Law, we make no representations or warranties about our Platform or the Content, including (without limitation) except those that cannot be disclaimed under the law:

You read, use, and act on our Platform and the Content at your own risk. We are not responsible for and are not obligated to control the actions or information (including User Content) of other users or other third parties. You release us and our subsidiaries and affiliates and our or their directors, officers, employees, partners and agents from any claim, complaint, cause of action or controversy and damages, known or unknown relating to, arising out of, or in any way connected with any such claim you have against third parties.

Despite anything to the contrary, to the maximum extent permitted by Law:

- our maximum aggregate Liability arising from or in connection with these Terms (including the services we provide and/or the subject matter of these Terms) will be limited to, and must not exceed the aggregate amount of fees paid by you to us during the three-month period immediately preceding the event that gave rise to the Liability or $100 if no such fees have been paid, and

- we will not be liable to you for any consequential loss, indirect loss, loss of profit (including anticipated profit), loss of benefit (including anticipated benefit), loss of revenue, loss of business, loss of

goodwill, loss of opportunity, loss of savings (including anticipated savings), loss of reputation, loss of use and/or loss or corruption of data,

whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

Despite anything to the contrary, to the maximum extent permitted by Law, we will have no Liability, and you release and discharge us from all Liability, arising from or in connection with any:

- transaction or event discussed on or resulting from your Giggle;
- event or circumstance beyond our reasonable control;
- acts or omissions of you or your personnel;
- defect, error, omission, lack of functionality or suitability (or the absence of, or reduction in, any anticipated result, outcome or benefit), inaccessibility of, interruption or outage with respect to our Platform;
- use of our Platform and/or Content;
- User Content;
- interaction you have with other users whether in person or online;
- injury or loss to any person;
- Content which is incorrect, incomplete or out-of-date; or
- breach of these Terms or any Law.

You agree that, to the maximum extent permitted by Law, these Terms exclude all terms, conditions and warranties implied by statute, in fact or on any other basis, except to the extent such terms, conditions and warranties are fully expressed in these Terms.

To the maximum extent permitted by Law, you must indemnify us, and hold us harmless, against any Liability suffered by us arising from or in connection with your use of our Platform or any breach of these Terms or any applicable Laws by you. This indemnity is a continuing obligation, independent from the other obligations under these Terms, and continues after these Terms end. It is not necessary for us to suffer or incur any Liability before enforcing a right of indemnity under these Terms.

Australian Consumer Law

Certain legislation, including the Australian Consumer Law (**ACL**) in the *Competition and Consumer Act 2010* (Cth), and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the provision of our Platform by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).

If the ACL applies to you as a consumer, nothing in these Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our Liability for our Platform provided to an entity defined as a consumer under the ACL is governed solely by the ACL and these Terms.

Subject to your Statutory Rights, we exclude all express and implied warranties, and all material, work and services (including our Platform) are provided to you without warranties of any kind, either express or implied, whether in statute, at law or on any other basis.

This clause will survive the termination or expiry of these Terms.

Termination

- If you delete our App from your device, your Account will remain active.

- You may cancel your Account and terminate these Terms at any time via the "Delete Account" feature (or similar) on our Platform or by sending us an email to the address at the end of these Terms. You can also deactivate your Account at any time via our Platform.

- We may terminate these Terms for convenience at any time by giving you 30 days' notice via push notification, text message to your device or email.

- At our sole discretion, we may suspend your Account or terminate these Terms immediately without notice if you are in breach of these Terms, any applicable Laws, regulations or third party rights or we receive complaints about you or your behaviour.

In the event of any dispute arising from, or in connection with, these Terms (**Dispute**), the party claiming there is a Dispute must give written notice to the other party setting out the details of the Dispute and proposing a resolution. Within 7 days after receiving the notice, the parties must meet at least once to attempt to resolve the Dispute or agree on the method of resolving the Dispute by other means, in good faith. All aspects of every such conference, except the fact of the occurrence of the conference, will be privileged. If the parties do not resolve the Dispute or (if the Dispute is not resolved) agree on an alternate method to resolve the Dispute, within 21 days after receipt of the notice, the Dispute may be referred by either party (by notice in writing to the other party) to litigation.

Assignment

You may not assign, transfer or delegate these Terms and your rights and obligations under the Terms without our prior written consent. We may without restriction assign, transfer or delegate these Terms and any rights and obligations under these Terms, at our sole discretion, with 30 days prior notice. Your right to terminate these Terms, in accordance with these Terms, remains unaffected.

Severance

If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision must be

read down as narrowly as necessary to allow it to be valid or enforceable. If it is not possible to read down a provision (in whole or in part), that provision (or that part of that provision) is severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.

Jurisdiction

Your use of our Platform and these Terms are governed by the Laws of Queensland. You irrevocably and unconditionally submit to the exclusive jurisdiction of the courts operating in Queensland and any courts entitled to hear appeals from those courts and waive any right to object to proceedings being brought in those courts.

Our Platform may be accessed throughout Australia and overseas. We make no representation that our Platform complies with the Laws (including Intellectual Property Laws) of any country outside Australia. If you access our Platform from outside Australia, you do so at your own risk and are responsible for complying with the Laws of the jurisdiction where you access our Platform.

Definitions

Intellectual Property means any domain names, know-how, inventions, processes, trade secrets or confidential information; or circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing.

Intellectual Property Rights means for the duration of the rights in any part of the world, any industrial or intellectual property rights, whether registrable or not, including in respect of Intellectual Property.

Laws means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any person with the authority to bind the relevant party in connection with these Terms or the provision of our Platform.

Liability means any liability, loss, cost, payment, damages, debt or expense (including reasonable legal fees).

For any questions and notices, please contact us at:

Giggle for Girls Pty Ltd ABN 79 632 152 017

Email: hello@giggle-girl.com

Last update: 2nd December 2020

© LegalVision ILP Pty Ltd

Have a question or want to partner with us?

name*

email*

phone number*

message*

contact us

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

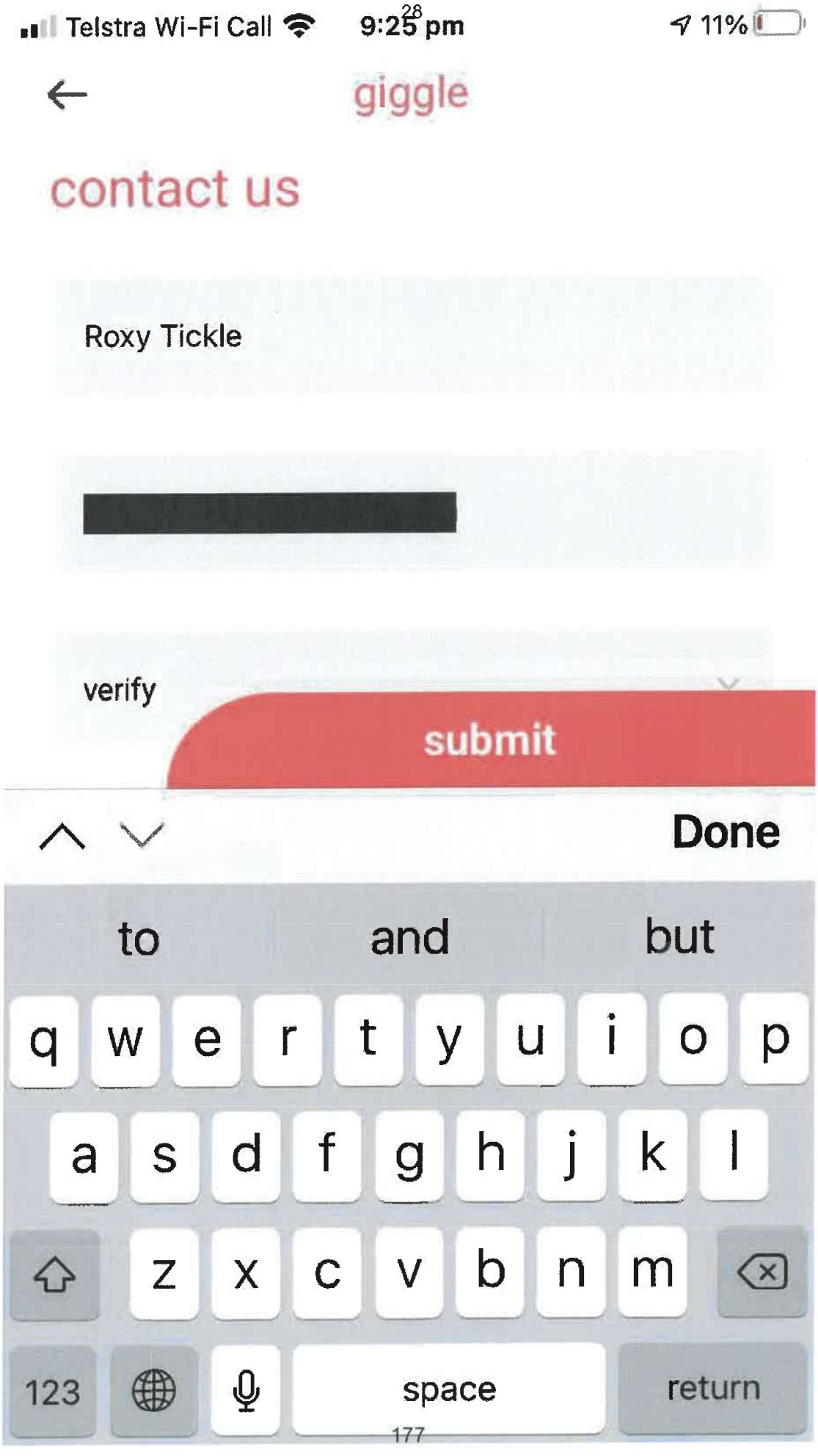
ANNEXURE "RT-5"

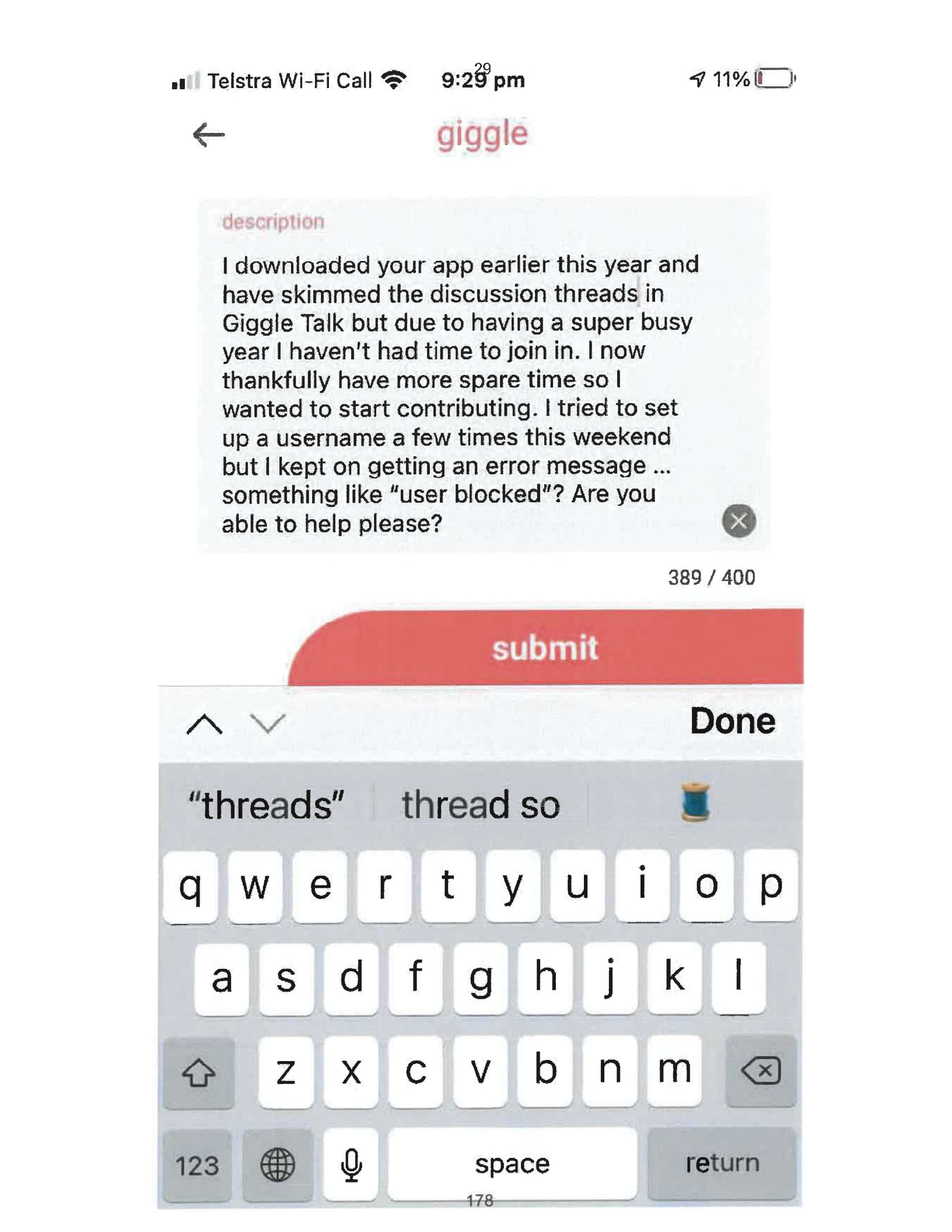
A true copy of the of the Giggle for Girls Pty Ltd in-app contact form filled out by the Applicant.

This is the exhibit marked "RT-5" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant


Telstra Wi-Fi Call
9:25 pm
11%
giggle
contact us
Roxy Tickle
verify
submit
Done
to
and
but
q w e r t y u i o p
a s d f g h j k l
z x c v b n m
123
space
return


Telstra Wi-Fi Call
9:29 pm
11%
giggle
description
I downloaded your app earlier this year and have skimmed the discussion threads in Giggle Talk but due to having a super busy year I haven't had time to join in. I now thankfully have more spare time so I wanted to start contributing. I tried to set up a username a few times this weekend but I kept on getting an error message ... something like "user blocked"? Are you able to help please?
389 / 400
submit
Done
"threads"
thread so
space
return



your verify
has been sent!

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-6"

A true copy of the text message the Applicant sent to Ms Grover on 30 October 2021.

This is the exhibit marked "RT-6" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

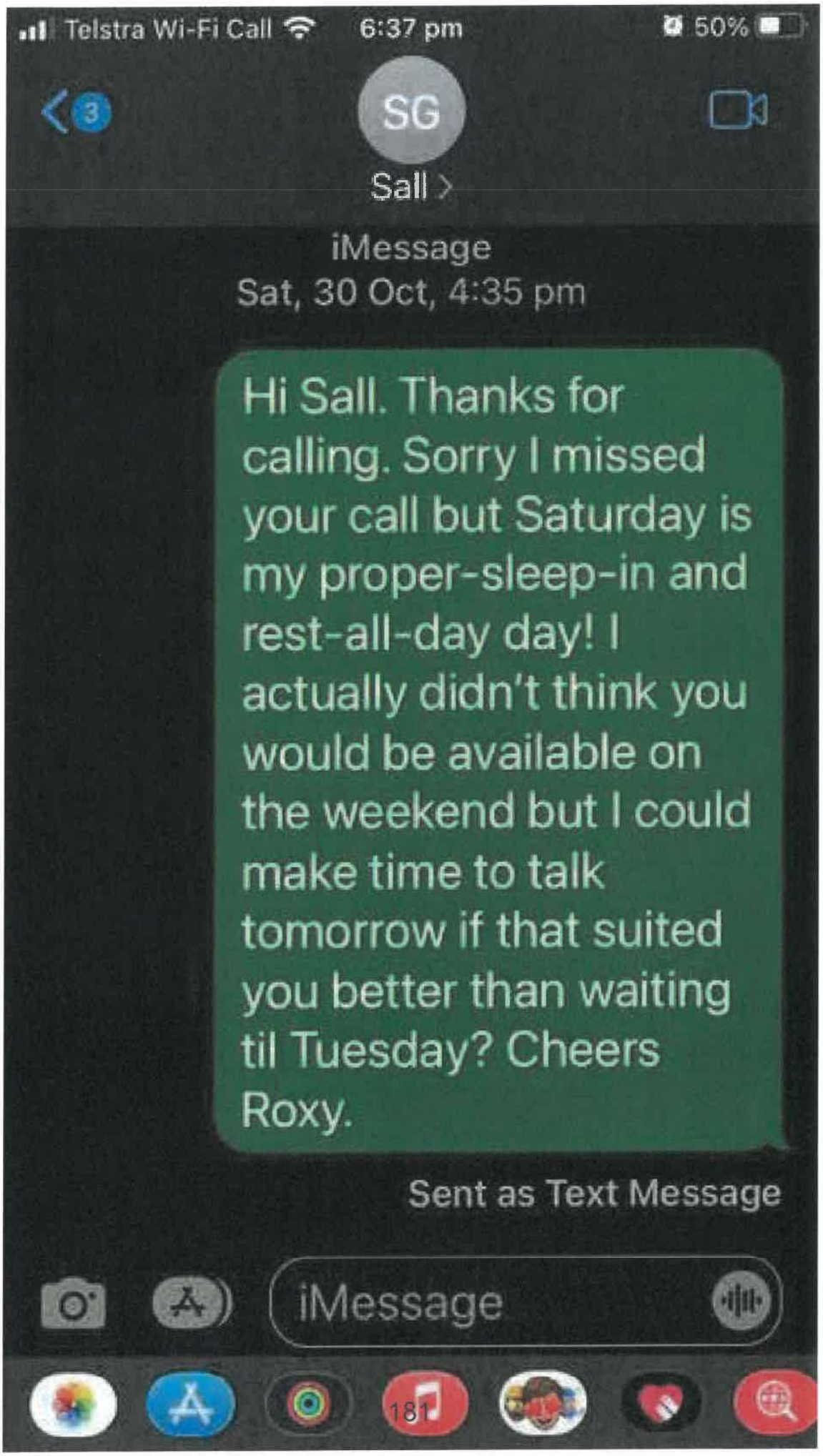

Telstra Wi-Fi Call
6:37 pm
50%
3
SG
Sall
iMessage
Sat, 30 Oct, 4:35 pm
Hi Sall. Thanks for calling. Sorry I missed your call but Saturday is my proper-sleep-in and rest-all-day day! I actually didn't think you would be available on the weekend but I could make time to talk tomorrow if that suited you better than waiting til Tuesday? Cheers Roxy.
Sent as Text Message
iMessage

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-7"

A true copy of an email chain between the Applicant and Ms Grover dated between 4 October 2021 and 5 November 2021.

This is the exhibit marked "RT-7" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.



Tinashe Makamure

Solicitor for the Applicant

From: **Roxy Tickle** [redacted]
Subject: Re: Help Desk request
Date: 5 November 2021 at 5:48 pm
To: Sall Grover [redacted], [redacted]

Hi Sall,

Oh goodness what a week. Sorry I didn't get a chance to try and call you on Tuesday … really busy week. I tried just before 5pm today but my call went straight to voice mail. I will try again in the morning.

Have a nice evening!

Cheers,

Roxy.

> On 29 Oct 2021, at 7:00 pm, Roxy Tickle <[redacted]> wrote:
>
> Hi Sall,
>
> I tried to call this afternoon but didn't catch you unfortunately. I'm pretty busy for a few days. I might try again on Tuesday afternoon.
>
> Have a great weekend.
>
> Cheers,
>
> Roxy.
>
> > On 28 Oct 2021, at 10:59 pm, Roxy Tickle <[redacted]> wrote:
> >
> > Hi Sall,
> >
> > I am still trying to work out why I only have partial access to the app. There are some interesting posts that I would like to provide my perspective on.
> >
> > I realised tonight that I can't pay for premium features either - I submitted a bug report. I will try and give you a call after lunch on Friday to see if we can work out what is going wrong.
> >
> > Hope you are having a great week!
> >
> > Cheers,
> >
> > Roxy.
> >
> > [redacted]
> >
> > > On 22 Oct 2021, at 9:33 pm, Roxy Tickle <[redacted]> wrote:
> > >
> > > Hi Sall … umm … any news?
> > >
> > > ¯_(ツ)_/¯
> > >
> > > > On 20 Oct 2021, at 9:19 pm, Roxy Tickle <[redacted]> wrote:
> > > >
> > > > Hi Sall,
> > > >
> > > > I tried to set up my username again tonight and got the "user blocked" error message again. Um … I hope I'm not *actually* blocked? It would be a weird form of blocking if I am allowed to see posts but not comments and not allowed to comment myself … quite apart from the fact that the concept of being blocked at all has me scratching my head.
> > > >
> > > > I thought the article by @clickclackcathy that you posted this evening was interesting and I am interested to see what the other commenters have said and I hope to join in the conversation.
> > > >
> > > > Hope you are having a nice evening.

Cheers,

Roxy.

Begin forwarded message:

From: Roxy Tickle <[redacted]>
Subject: Re: Help Desk request
Date: 16 October 2021 at 8:28:39 pm AEDT
To: Sall Grover <sall@giggle-girl.com>

Hi Sall ... any luck yet?

Cheers,

Roxy.

On 11 Oct 2021, at 10:58 pm, Roxy Tickle <[redacted]> wrote:

Hi Sall,

Sorry for the delay!

I try and put my email away for the weekend and then I had a massive day at work today.

My phone number is [redacted]

Thanks for your help.

Cheers,

Roxy.

On 8 Oct 2021, at 10:32 pm, Sall Grover <sall@giggle-girl.com> wrote:

Hi Roxy,

I am so sorry for this!

Can you send me your phone number and I will personally look into it right now.

All the best,

sall

founder & CEO
www.joinagiggle.com
[redacted]
@salltweets

On 4 Oct 2021, at 1:11 pm, Roxy Tickle <[redacted]> wrote:

Hi Sall,

I sent this message through your app a week ago and haven't received a response as yet. Sorry to disturb you, but would you mind passing it on to the appropriate person please? I couldn't find any other way of contacting tech support.

Thanks in advance!

Cheers,

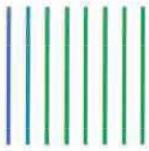

Roxy.
<image0.png>

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-8"

A true copy of the Applicant's complaint filed with the Australian Human Rights Commission dated 5 December 2021.

This is the exhibit marked "RT-8" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

ATTACHMENT B

From: Australian Human Rights Commission
To: [redacted]
Subject: AHRC Make a Complaint Form
Date: Sunday, December 5, 2021 10:11:47 PM

Australian Human Rights Commission

Complaint

Your Details (Your complaint)

Name: **Ms Roxanne Tickle**

Address: [redacted]

Email: [redacted]
Phone (After hours):
Phone (Business hours): [redacted]
Mobile:
Fax:
TTY:

Would you like a copy of your complaint emailed to you: **Yes**
(A copy of the complaint form will be sent to [redacted])

Do you require assistance to participate in the complaint process?:
No

Do you require assistance to participate in the complaint process?:
No

Do you have a legal representative or advocate?
No

Who is the complaint about

Organisation Details

Organisation name: **Giggle for Girls Pty Ltd**
ABN: **79 632 152 017**

Address:

Email: **hello@giggle-girl.com**
Phone (Business hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Provider of smart phone application

Do you want to add another respondent?
Yes

2nd Respondent's Details
Name: **Sall Grover**

Address:

Email: **sall@giggle-girl.com**
Phone (Business hours):
Phone (After hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Giggle for Girls Pty Ltd's Chief Executive Officer

What are you complaining about

I have been discriminated against because of my:

age: **No**
disability: **No**
association to a person with a disability: **No**
use of an assistance animal or disability aid or because I have a carer: **No**
sex: **No**
pregnancy: **No**
marital or relationship status: **No**
family responsibilities: **No**
sexual orientation: **No**
gender identity: **Yes**
What is your gender identity? **Female (more specifically ... a transgender woman)**

intersex status: **No**
race (including colour, national origin, descent, ethnicity and immigrant status): **No**
trade union activity (employment only): **No**
criminal record (employment only): **No**
religion (employment only): **No**
social origin (employment only) : **No**

Please state the other reason(s):
I believe that I am being discriminated against by being provided extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.

When did the alleged event(s) happen?
I became aware that I was being treated differently in September 2021.

Reason(s) for delay

What happened?
What Happened to Me 1. In February 2021, I downloaded Giggle from the Apple iPhone App Store and completed its in-app registration process. 2. Giggle is a social media app. It is marketed as "the female app". 3. The app registration process included supplying my mobile phone number, choosing a user name and taking a "selfie" from within the app. 4. Giggle's provider is Giggle for Girls Pty Ltd, a company based in Queensland. 5. Giggle for Girls Pty Ltd's CEO is apparently Sall Grover. 6. Giggle is marketed to, and is apparently used by, a global user base. 7. Giggle's terms clearly stipulate that app users must be female. 8. I am a NSW resident. 9. Although my sex assigned at birth was male, my birth certificate has been reissued confirming that my sex is female. I also have a gender confirmation letter from my physician

confirming that my gender is female. 10. Giggle apparently uses so-called bio-metric gender verification software to determine whether the registering user is "male" or "female" based on their "selfie", as well as using human beings in a secondary process to verify the software's gender determination. Presumably the gender verification software attempts to determine the applicant's sex assigned at birth, rather than their current legal sex or gender. 11. The so-called bio-metric gender verification software and human beings apparently both determined that my gender was female as I was permitted to complete my app registration. 12. Between February 2021 and September 2021, I occasionally opened the app and read randomly selected posts. 13. In late September 2021 I noticed that although I was able to read posts made by other users, I was unable to make comments on any of these posts, read any comments made by other app users or make any posts myself. I contacted Giggle through its in-app contact form to alert them of my restricted use. I received no response. 14. In early October 2021, I sent a follow up email to the main contact email address (sall@giggle-girl.com) listed on the app's website (joinagiggle.com). I received no response. 15. A week later I sent an email to the main contact email address (sall@giggle-girl.com) and the generic welcome email address (hello@giggle-girl.com). I received a response requesting that I supply my mobile phone number so the problem could be looked into. I provided my mobile telephone number as requested. I received no further response. 16. Over the next 4 weeks I sent a further 6 emails following up my query. I received no response to any of them. 17. I sent another follow up query through the in-app contact form. I received no response. 18. The singular emailed response that I did receive from Giggle, apparently from Sall Grover, contained an email signature panel with a mobile telephone number. 19. In late October 2021, I sent a text message to this number. I received no response. 20. In late October 2021, I made an unanswered phone call to this number. I decided to not leave a voice mail message. The voice mail system was one where the audio message is converted to a text message. After the trouble I had gone to to try and talk with the app provider, I thought direct voice communication was the best option. The following morning, I missed a returned phone call from this number. The caller did not leave a message. I tried calling the phone number again 1 week later and was unable to get through. 21. I considered at that point that I had gone over and above a reasonable level of effort attempting to make contact with the provider of the app. 22. My use of the app does not appear to be terminated, but vastly restricted. When I attempt to access certain app functionality, I am presented with a "User Blocked" error message. I am presented with the same error message if I attempt to purchase Premium Features in the app. 23. It appears that Giggle's provider only wishes cisgender women and transgender men to register for and use the app, apparently deliberately intending to exclude transgender women, cisgender men, and non-binary people. 24. Tweets published by Sall Grover's Twitter handle (@salltweets) appear to show a poor understanding of sex and gender, often using the terms interchangeably. The Twitter handle commonly refers to transgender

women as men and transgender men as women. 25. I have felt increasingly uncomfortable by announcements made by Sall Grover, both on Twitter and in interviews with various media outlets, both local and international, as well as posts made within the Giggle app itself by Sall Grover and other app users. 26. Transphobic comments posted in the app's social media discussion threads appear to not be moderated, and in fact appear to be encouraged, both within the app, and on Twitter, by Sall Grover. 27. I believe that I am being discriminated against because of my gender identity. I believe that Giggle and Sall Grover have decided in error that I am male and have declined to grant me full use of the app. If this is true, I am uncertain why I have been permitted to retain partial use of the app. How Does it Happen to me and Others? As a resident of NSW, along with other protected categories of people including those based on race, disability, sex, age, sexual orientation, intersex status, marital status and others, I am meant to be protected from discrimination based on my gender identity by legislation at both the state and federal level. This safety net appears to me to have some holes in it. Discrimination based on gender identity still seems to be fair game. It is often left to transgender and gender diverse people and their direct allies to be reactive at the time and place of any discrimination. It appears still to be an accepted form of bigotry amongst many people. Everybody has the right to be a bigot, somebody once said, and many people are continuing to make use of that right. It is the bigotry that need not hide its face. I can't recall hearing of an actual group of people that actively discriminates based on age. I have been unable to locate a Facebook page or website for the Ku Klux Klan in Australia. Yet groups that favour discrimination against people based on their gender identity appear to have no need to hide their face. They have Facebook pages. They have websites. They have email addresses. Here is a sample of Australian groups that have no fear in condoning and/or encouraging discrimination against transgender and gender diverse people: • Coalition for Biological Reality • LGB Alliance Australia • Save Womens Sport Australasia • Women Speak Tasmania • IWD Brisbane Meanjin • Feminist Legal Clinic Inc. Not only that, individuals with platforms, including journalists, politicians, business people, lawyers and others have no qualms about speaking out against transgender and gender diverse people and encouraging their readers, listeners and/or constituents to discriminate against transgender and gender diverse people. They don't campaign for legislative change, mind you, they just openly encourage discrimination. Because they are seemingly allowed to. In fact, for some of them it often appears to be their raison d'être. Here are a handful of examples: • Sall Grover: https://www.youtube.com/watch?v=4bqXNXQwgpk • Associate Professor Holly Lawford-Smith: https://www.youtube.com/watch?v=9GeTliLuoUs • Peta Credlin AO: https://www.skynews.com.au/opinion/peta-credlin/erasing-women-nsw-woman-of-the-year-could-be-awarded-to-a-trans-woman/video/a2c774ae1882c3d6fd9a79b256d4c36d • The Honourable Mark Latham MLC: https://www.news.com.au/national/nsw-act/politics/mark-latham-seeks-to-outlaw-ability-to-identify-as-

transgender-and-rejects-gender-fluidity/news-story/217dca3f008fb57ee825a4ef69a1156c • Senator Amanda Stoker: https://qnews.com.au/queensland-lnp-senator-calls-for-support-to-fight-transgender-agenda/ • Senator Pauline Hanson: https://www.starobserver.com.au/news/pauline-hanson-says-transgender-children-should-be-taken-from-parents/197282 • The Honourable Scott Morrison MP: https://www.sbs.com.au/news/gender-whisperers-scott-morrison-criticised-for-hateful-tweet-about-trans-students/513b958c-4dce-49a7-85ea-ebc9d3c6792d • Kirralie Smith: https://twitter.com/KirralieS/status/1159717711317889024?s=20 • The Honourable Barnaby Joyce MP: https://omny.fm/shows/drive-with-tom-elliott/barnaby-joyce-fires-back-at-mother-of-transgender • Senator Claire Chandler: https://fb.watch/9H_jLrMCxx/ • Annie Kia: https://anniekia.net/10-uncritical-allegiance-the-harms-of-queer-ideology/ • Katherine Deves: https://www.youtube.com/watch?v=U6sor5C3Y60 • Bernard Lane: https://www.smh.com.au/business/companies/substantial-distress-press-watchdog-rebukes-the-australian-for-reporting-on-gender-issues-20210903-p58oi7.html These are just some names that spring to mind and some easily found relevant material. I could go on and on if I had the time and resources. To the best of my knowledge, none of the individuals mentioned above have any qualifications or experience in psychology, psychiatry, paediatrics, gender counselling or indeed any relevant area of primary or ancillary health care. Why is it, then, that they believe that they get to control the public narrative about our lives? What is the point of having legislation to protect us from discrimination when it appears that so many people with such prominent platforms have no regard for it? Not only that, but they openly and unashamedly encourage their readers, listeners and/or constituents to flout the legislation as well. Transgender and gender diverse people, along with their closely connected allies, are often left to defend themselves against incidences of discrimination. Often, they overlook the discrimination due to the huge amount of emotional labour and stress involved in following up and prosecuting the discrimination. This is overwhelmingly the case when Sistergirls and Brotherboys are involved, as it usually is with any other instances of intersectionalism. My complaint relates to what I believe has been, and continues to be, discrimination against me, but I have also witnessed other trans women and their allies ejected from Giggle without repercussion. I have witnessed other instances of discrimination and verbal assault based on gender identity. People usually say nothing, put their head down and attempt to carry on with their lives with a concomitant decline in their mental health. We have often tended to attempt to live with discrimination in the past because obtaining a favourable outcome, although it may be better for our mental health in the long term, is only good for our mental health if we are successful … when we are successful. Until then, if it indeed happens, it is detrimental to our mental health. So we usually put our head down and try to move on. Acts of discrimination against transgender and gender diverse people happen far too frequently, without penalty. Why is it

that trans and gender diverse people and their allies are often left alone to fight to defend their already existing legal rights? Must we be the ones to take legal action each and every time it happens? Must we? Surely there must be a better way?

Do you intend to email the Commission supporting information?
No

Upload Document File ID:

Other Information

How do you think the complaint could be resolved?
Giggle management should seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females". Giggle should extend full app functionality to me and all other people that identify as female as long as they comply with all other app terms & conditions.

Have you complained about this to another organisation?
No

Were you referred to us by another organisation?
Yes

Organisation's name: **Queensland Human Rights Commission**

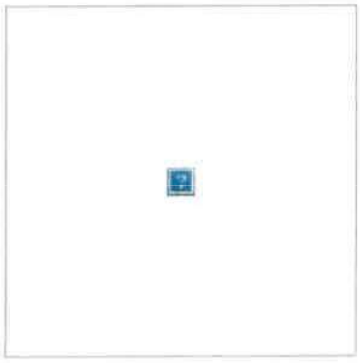


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Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-9"

A true copy of the various statements that Ms Grover has posted to 'X' about the Applicant and this case.

This is the exhibit marked "RT-9" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

← **Tweet**

Sall Grover @salltweets · 4h
We responded via our lawyer & provided the evidence that there has been a harassment campaign towards me from the complainant. The complainant is also bragging on Twitter that they're on Giggle. The AHRC ignored this. Now we wait to hear what the President Delegate says...

2 98

Gill R KPSS @thespiralquirk · 3h
Replying to @salltweets
This Roxanne?



instagram.com
Roxy Tickle) • Instagram photo

3 7

rattiebag @rattiebag · 2h
"Roxy Tickle"
Always with the porno names

19

Ladybirds are not Nazis @Aromatica365 · 2h
Replying to @salltweets
This Roxie Tickle ????

Biology Rules Ok @OkBiology · Mar 18, 2021
Replying to @AugustineSister and @IainDale
The weirdest one had to be Roxy Tickle. It's like a sketch from a comedy show, but real
#SaveWomensSports



← Tweet

Sall Grover
@salltweets

In January 2022, I received an Australian Human Rights Commission complaint against both Giggle & me personally, from a trans identified male who wants to use a social networking app for females & for me to be re-educated on sex & gender.

I am finally able to talk about it.



ender wars over face

Trans woman banned from female network

Y chat group
ognition soft-
v members is
e Australian
mmission to
't allow men
nen to join.
of the social
Giggle. Sall
ole point of
"safe space
n men.
ner Holly-
now. Gold
facing an
human

rights body. Her popular app uses AI facial recognition computer software to recognise female faces to admit new members, on top of screening by the human eye. More than 15,000 women from 88 countries have joined the platform since it started in 2020.

But Ms Grover, who says she wants to help women after experiencing sexual harassment in Hollywood, has been informed by the commission a complaint of "gender identity discrimination" has been made by transgender woman Roxanne Tickle.

The AHRC told her that if she allows Ms Tickle to join the app and "all other people that identify as female", and undergo "education" about sex, gender and gender identity, the complaint will be dropped. Otherwise the case could be taken to the Federal Court.

"What I find quite chilling is the Australian Human Rights Commission is sending me something basically saying I need to be re-educated," Ms Grover said.

"That, to me, is the scandal. I am already well educated about this. I just don't believe in gender ideology."

She says female-only gyms and pools exist, and men have male-only Men's Sheds, but she gets men from all over the world constantly trying to join the app every day.

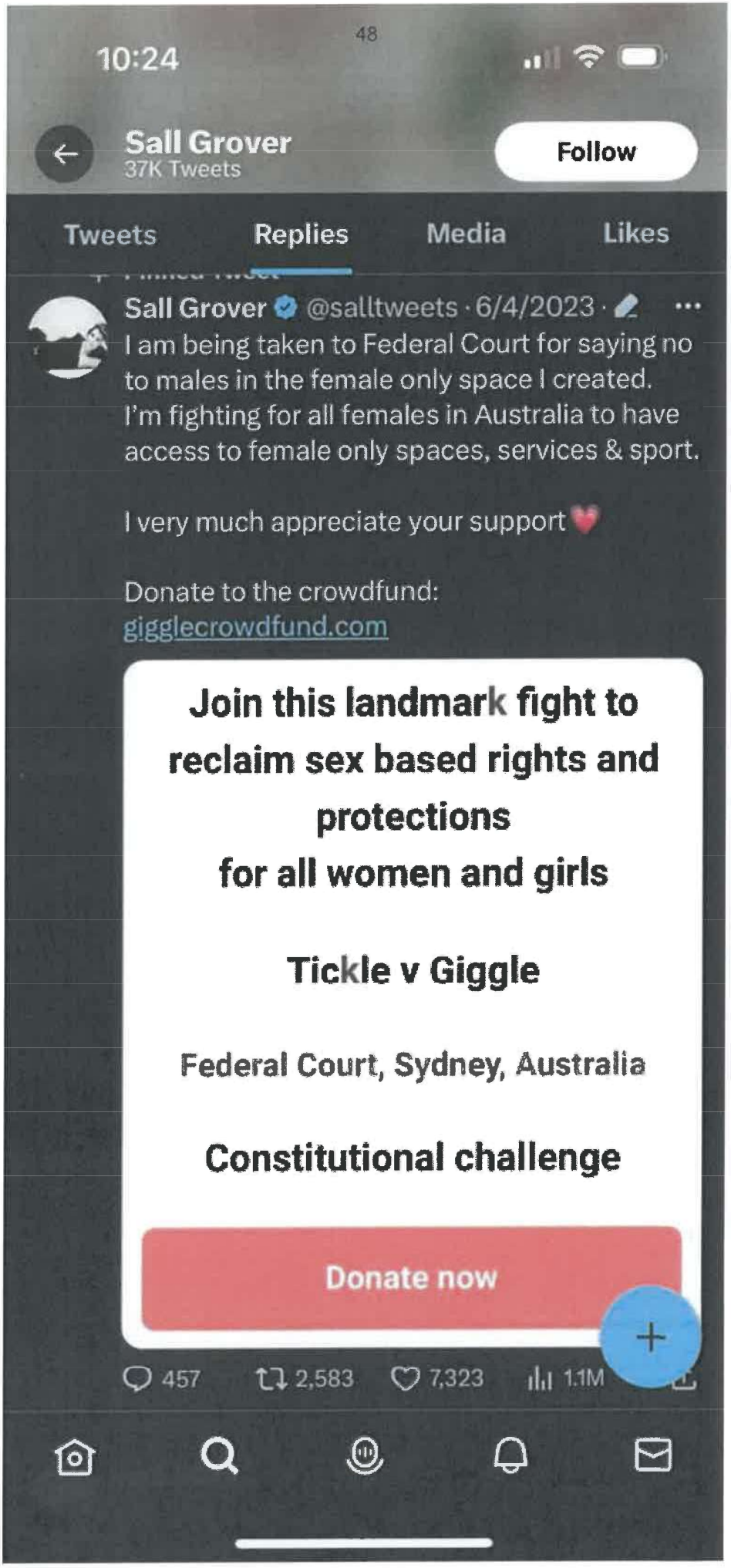
"Women are entitled to have a place to connect and chat online and have fun away from the male gaze," she said. "What the Human Rights Commission is basically suggesting is that it's not my or any other woman's human right to congregate away from males."

Liberal Senator Claire Chandler has blasted the situation, saying everyday Australians are being punished for objecting to males being in female spaces such as bathrooms or sports teams.

"We are seeing a full-on authoritarian attack on the rights

11:34 AM · Mar 21, 2022 · Twitter for iPhone

129 Retweets **15** Quote Tweets **512** Likes


10:24
48
Sall Grover
37K Tweets
Follow
Tweets
Replies
Media
Likes
Sall Grover @salltweets · 6/4/2023 ·
I am being taken to Federal Court for saying no to males in the female only space I created.
I'm fighting for all females in Australia to have access to female only spaces, services & sport.
I very much appreciate your support 💔
Donate to the crowdfund:
gigglecrowdfund.com
Join this landmark fight to reclaim sex based rights and protections
for all women and girls
Tickle v Giggle
Federal Court, Sydney, Australia
Constitutional challenge
Donate now
457
2,583
7,323
1.1M

8:43



The Masked Unit @TheMaskedUnit · 8h

Hey how's your app going, Sall? 🤣

2 1 1 28



Sall Grover

@salltweets

Better than any man's ability to be a woman.

7:21 am · 17/5/2023 from Earth · **17** Views

6:01

← Tweet



Sall Grover @salltweets · 1h

It is irrelevant to me whether a man has gender dysphoria, autogynophilia or even if he has had "the surgery". None of it makes him a woman. None of it. So he's not coming into a woman only space.

13 113 731 7,290



eat at Dave's @DavidMaegraith · 1h

Are any protests being planned over this Sall? What about a March on Federal Parliament House in July school holidays?

1 2 143



Sall Grover
@salltweets

Yep! They're being organized. Stay tuned.

4:24 pm · 21/5/2023 from Earth · **125** Views

5 Likes

7:34

← Tweet



Sall Grover ✓
@salltweets

This really shouldn't need to be said, but a man having his penis inverted does not turn him into women.

In fact, it proves that he is a man, as it's a procedure that could only ever be performed on a man.

7:31 pm · 2/6/2023 from Earth · **221** Views

9 Retweets **1** Quote **43** Likes

7:21

Tweet



Venice Allan @rosevenicealLan · 35m

Cannot think of a man I'd like to share intimate spaces with less than Robin Moira White quite honestly.

4 5 57 859



Sall Grover
@salltweets

I can think of one...

7:09 pm · 13/6/2023 from Earth · **115** Views

1 Retweet **2** Likes

1:47

Tweet

Sall Grover
@salltweets

Just a reminder that if you have to "identify" as a woman it's because you're not one.

gigglecrowdfund.com

Amy Sargeant
@amy_sargeant_

God it will be hilarious watching the disgraced Sall Grover waste more money on a doomed constitutional challenge against trans people. Go ahead Sall, we will prepare the popcorn

No Self ID In QLD
@noselfidinqld

Tonight is a dark time for women and girls in QLD as the reprehensible @QLDLabor just legislated that any man will be able to be legally considered female. We are not giving up. @salltweets is bringing a constitutional challenge which will invalidate this law. Buckle up.

7:18 PM · Jun 14, 2023 · **161** Views

7 Retweets 2 Quotes 19 Likes

10:06 pm · 14/6/2023 from Earth · **1,150** Views

11:16 pm · 14/6/2023 · **27K** Views

10:14

Tweet



Sall Grover
@salltweets

The only reason why someone would need to be recognized as female in law is because they're male in reality.

9:01 pm · 14/7/2023 from Earth · **3,584** Views

58 Retweets **2** Quotes **340** Likes **4** Bookmarks

5:07

← **Post**



Miss Gendering @NoTruthInTrans · 1h

A man can never "live as a woman."

That's an impossibility.

He can only ever live as a man behaving how he imagines some woman might behave.

He's still a man, and he always will be.

Governments may censor and jail us all, and that still won't change reality.

> **Sall Grover** @salltweets · 8h
>
> The "lived experience" claim is one of the most baffling to me.
>
> I received an Australian Human Rights Commission complaint with ... Show more

1 12 69 956



Sall Grover
@salltweets

Exactly. I'm like, "You can take me to court for not believing a man is a woman and it still won't make me believe it."

4:06 pm · 23/8/2023 from Earth · **459** Views

3 Reposts **55** Likes

5:55

← Post

3 11 32 924

Sall Grover ✓
@salltweets

I wrote to them last week 💔

The AHRC has intervened in Tickle V Giggle as amicus curiae, which means "friend of the court". But not a friend to women & lesbians. It means that Tickle V Giggle is basically the Government V Giggle.



I am writing in support of the Lesbian Action Group's application for a temporary exemption thereby permitting only female-born lesbians at their event.

It should go without saying that only female-born people, aka women, can be lesbians. There isn't a male person in the world who is a lesbian and there never will be. It's absolutely absurd to suggest otherwise.

I am not a lesbian but whole heartedly support lesbian-only events. I would never have the audacity to go to a lesbian event I was not explicitly welcome at. Unfortunately, many people in society - namely males who are under the delusion they are lesbians - do not hold the same manners.

In the name of inclusion, I support lesbian only

to go that caters to their specific needs

sion is not including males in lesbian eve

ces and spaces.

Australian Human Rights Commission wi

e to boast about encouraging LGBTQ+

ity if they deny lesbians the right to lesb

events, services and spaces.

are not women in any circumstance.

rds,

Grover

4:12 pm · 29/8/2023 from Earth · **192** Views

1 Repost **6** Likes

10:41

← **Post**



Janet Inglis @DieMadTerf · 5h

Only a man can think he's a woman.
It's a condition peculiar to men.

10 51 368 4,135



Sall Grover
@salltweets

Exactly.
It's a point I think about often in regards to Tickle V Giggle. Only a man could take it to court in this manner. A woman would never need to, because she would be using the app no problem regardless of her "gender identity".

5:47 pm · 1/9/2023 from Earth · **638** Views

3 Reposts **32** Likes



Janet Inglis @DieMadTerf · 4h

Women have nothing to prove.
And, how can anybody prove, or disprove "gender".

5 178

3:28



Sall Grover
@salltweets

It's madness. Absolute fucking madness.

In the Australian Human Rights Commission complaint against me, one of the conditions of conciliation was I go to "sex & gender education" (which could only be "re-education" because I am already *very* educated on the topic of sex & gender). Had I not been pregnant at the time, I may have agreed to go just to take notes on it and expose what they're "teaching". In fact, they're lucky I *didn't* go.

I could teach "sex & gender education" classes. So could @angijones & @RachaelWongAus.

2:05 pm · 2/9/2023 from Earth · **89** Views

9 Likes

8:37



Sall Grover
@salltweets

I had a really rough day with it all too.
When it all hits me, it really hits me.
I just can't believe it's gotten to this point.
Institutions are actually saying men are women.
They're punishing people for acknowledging the reality that men are not women.
I firmly believe that this issue is bigger than women's rights. We're the canary in the coal mine.
This is about everyone's right to freedom of belief. The most fundamental right. Nothing else matters without that.
I'm enjoying a whiskey and just thinking that, at best, a man can convince a court that he's a woman. But he'll never convince me. And, in reality, he'll still always just be a man.
🤦‍♀️

7:15 pm · 5/9/2023 from Earth · **1,648** Views

11 Reposts **1** Quote **103** Likes **1** Bookmark

← **Post**



Sall Grover @salltweets · 59m

There would be absolutely no debate about what a woman is if men weren't claiming to be women.

6 28 197 2,381



Colin Wight @colwight · 51m

Sorry to disagree (again). But feminists have been asking that question for decades.

blinkist.com/en/books/aint-

4 213



Sall Grover
@salltweets

No. You are worryingly confused here.

Feminists have always *challenged* what is *expected* by men and women of women and girls. Prior to the capture of language to suit men who claim to be women, they spoke clearly to challenge both sex and gender *expectations*. Many a trans activist has tried to use that as proof that men are women, because *they captured the fucking language*.

And I don't give a shit who started it. I'll finish it.

MEN ARE NOT WOMEN.

A simple fucking DNA test will prove this.

But, to be honest, I'm actually not going to have this debate with you. I muted the previous conversation because it is a waste of everyone's time, and I don't like to get angry. But for some of us, this isn't fun theories to test out on Twitter to get a response and a rise out of people. A nod to a bygone era of academia. It's our lives. It's our livelihoods. It's our actual rights in law. Guess which sex I'm talking about. I bet you know.

If you're on Team Tickle now, go be on Team Tickle. I don't care. He doesn't have to raise money, incidentally, he gets a free ride to attempt to destroy my life *based on a lie*. While everyone is testing out theories on gender, old fashion sexism is alive and fucking well.

6:25 PM · Sep 6, 2023 · **78** Views

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-10"

A true copy of various online publications, newspaper articles and blog pieces that have interviewed Ms Grover or have been authored by Ms Grover.

This is the exhibit marked "RT-10" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

I Guess I'm A Terf Then — part II

Sara B. Cooper



We're getting heavier. I don't have an issue with trans people per se. I have trans friends, I've had sex with trans people, and I've written sex work from trans women's perspectives. I have learned a lot from these relationships. In real life, every single conversation I have ever had with a trans man or a trans woman has been pleasant. It is there when we are in the Twitter Arena or comment threads on Reddit or a number of Super Bowl commercials, I get a little anxious — with the exception of Super Bowl commercials, I'm super into those. Like, remember that one with the guy and the dog and the beer? "WHO'S A GOOD BOY? WHO'S A GOOD BOY? WHO'S A GOOD BOY?"

Before I go on, further, I want to say that one of the best sex toys you can have as a CIS girl is a strap-on. I love using a strap-on.

In February of this year, before Giggle had officially launched, it was discovered on the App Store and Google Play software marketplace. You set up a profile and you can join the main Giggle Area or connect to Pearls, a Reddit-like system of Super Groups, etc. Later, Giggle added Stacks — subforums for meetups in person. The app's director, known as <redacted>, also created the Pearls and Stacks and hundreds of profiles using "GIRLTERF." At no point was <redacted> using Giggle because she had law officials somewhere. It was also found out, by me, that The Large contacted me requesting a username as she felt I am enough of a "Whole new world thing" to

I went offline because I had Giggle. I'm a woman and I want to meet other women, girls. The whole premise is a very telling one for me personally.

Giggle HQ announced by cancel-culture other week we had to do an awkward announcement as I had plans having a conference on women's rights and had used registered a hashtag on "GIRLTERF" for the event. I can't go to any platform that isn't associated with abused TERFs instead. Moreover, attempting to create one just only a quarter days before the event was impossible. It is impossible to trust the room.



I was angry, so very angry — but I'm still really hard to center that there did not think we have a personal issue with trans women. I think, I stand that the behavior of <redacted> is not just non-act, story of whether I think that there are some women and men in the world who we do not agree with their political and economic — because of their ideologies. I know that there are many trans women and men in the world who do not support the work of TERFs, who do not have feelings and who support female safe spaces. There are, in fact, many trans people that are in full support of the women and girls groups in here. It is also unbelievable to me that the worst members of this community

As I said [redacted] over my email says a week ago. I have come to see the screaming rage and assault culture by among that is not a great look. It required the angry to me, banging a fucking bat on to me, and like, all of me in the name of [redacted] and the name. As the creator of a female-only female safety app, I felt it was my duty to [redacted] and [redacted] and a right, I may [redacted]. I have endometriosis. Screech-ing I would not have all of the work women for [redacted] it is impossible to say women go periods made me scream. "Come on! It's 2020! What are you thinking?!"

Because of my illness, the [redacted] on me and Giggle exist on all. Any networking that happened. Then I needed to reach Giggle users. I am beside the point to struggle, can be under them. But TERFs and using Giggle and — to the opposite of this, Giggle is a no-no-no-no. The same house of the place.

Giggle HQ had a tendency, and I mean do not at this, to take me to [redacted] under the [redacted] app. It is [redacted] app. I at the [redacted] to [redacted] that Giggle is 100% [redacted]

To be perfectly honest, it made me sad



I go much better than I did everything I could do to be an ally. I bought Giggle HQ. I bought Radical Feminism on the point of being left. I'd to leave the "Socio-Critical [redacted] realities. I believe her to the feminist advocates by me. I don't argue or insist or insult only those rights restricted from women. It's important to note I was never supporting people who left ID — and want to [redacted] can live [redacted] are not included per [redacted] to [redacted] should be [redacted] this party for [redacted] and [redacted]

I was happy using the [redacted] the licensee and the [redacted]. I like, these people and I support [redacted] [redacted] amazing [redacted] to [redacted] take responsibility for [redacted]

But I was wrong. I was once more wrong. I was wrong. In retrospect, I think [redacted] — everybody supports me, and as "TERF" I don't — there are three words I'm having real [redacted] people. The [redacted] who [redacted] they are [redacted] whether they are [redacted] whether we and they don't wonder take work against from us to feel sense. They are not the TR, who are going to get? They [redacted] to feel safe, and understand that the [redacted] of women's rights has [redacted] I [redacted] I still [redacted] I [redacted] [redacted] [redacted]

Echoes of Orwell in threat to women's rights and safety

A bold Gold Coast pioneer is standing up for her right to prioritise and protect sexual reality

ANGELA SHANAHAN



Sally Grover is an ambitious young businesswoman, a former scriptwriter who escaped Hollywood and recently started an app called Giggle.

The app was designed for girls and women to connect with other girls, to find friends, flatmates, travelling companions and perhaps exchange tips on fashion, whatever, "girly" sort of things, as the name Giggle would imply. What man would possibly be interested? Think again.

Grover has found herself the subject of a complaint to the Australian Human Rights Commission by a person who claims discrimination on the basis of gender identity because Grover does not want anyone who is not biologically female on the app. According to Grover, to resolve the complaint she must submit to "sex and gender re-education" and to allow all males who identify as women on the app. In other words, the AHRC's "conciliation" process has to begin at the point where she gives in to the complaint.

Grover found shortly after beginning her business there were a lot of men trying to get on to the app. Why is debatable. Some might have been trying to hit on girls. So to prevent men from accessing her app, Grover uses an AI facial identification program to weed out male intelligent.

Mostly it works. After all, men and women are different – different life experiences, different health needs and naturally different physiognomy.

However, initially Grover did not count on trans women wanting to use her app. After all, they has have different life experiences from biological females, different medical needs and physiology, and, sometimes, even more pressing safety needs. Grover claims she does not want to discriminate against the trans community, but it should be obvious that an app called Giggle might not be aimed at the complex dollar of trans people, rather, it is aimed at women and girls who have come to maturity as biological females and consequently have their own different complexities.

However, the complainant, a transgender woman, managed to get on to the app and was removed. As Grover explained, the person "was removed from the Giggle app because they are male, no other reason. The removal was manual. I looked at the onboarding selfie and saw a man. The AI software had let them through, thereby making a mistake that I rectified."

Grover has found herself in a dilemma that is the direct result of the phony notion of gender identity being defined as sexual reality. This came about in 2013 during the Gillard government, when the Sex Discrimination Act of 1984, originally put into place to protect women from unfair workplace and education discrimination, was modified. They removed the definition of men and woman as biological realities to allow gender identity, without regard to the person's sex at birth. Births, deaths and marriages in most states have also been changed. The confusion and ambiguity are obvious. Consequently, what was originally designed to protect women is being used against them.

Nowhere is this loss of definition of sex to gender identity to the detriment of women more obvious than in sport – witness the furore over Lia Thomas, the American trans woman swimmer who recently won a prestigious college championship.

In 2020, senator Claire Chandler was subject to a complaint to the Tasmanian Anti-Discrimination Commission for writing: "Women's sports, women's toilets and women's changerooms are designed for people of the female sex and should remain that way."

She, too, would have been required to agree to sex and gender "re-education" and required to sign a confidentiality agreement if she wished to participate in conciliation.

Chandler's Save Women's Sport Bill gives Australian women and girls the right to single-sex sport and prevents sports clubs and associations having legal action taken against them for offering single-sex sport.

However, Chandler has been the subject of bullying and vilification by activists working together "to try to compel our speech and limit what we can say".

She makes the valid point that "the Sex Discrimination Act, designed to provide protections for women on the basis of sex, now requires organisations and individuals to prioritise self-affirmed gender identity above sex."

Hence the Australian Human Rights Commission's support of gender identity over sex is the case against Grover and Giggle.

Gender theory is no longer just a fixation of the political left, although it is true that the proselytising left has infiltrated the mindset of a young generation on gender orthodoxy, as on many other things.

How else to explain the truly Orwellian concept of sex and gender re-education? Even the term sounds like something from a communist playbook.

However, the breakdown of sexual identity was not just political. It began in the promiscuity of the early post-war sexual revolution that divorced sex from child-bearing and fertility and encouraged fluidity in sexual orientation, and has culminated in the attempt to eradicate sexual identity.

Members of the general public are blissfully unaware of this as they go about their lives because most people are not so confused.

Women in sport might be the first salvo in destroying this falsehood, or perhaps some brave woman like Grover, an unsuitable pregnant might expose this ontopaint for his nakedness to reassure to the bleeding obvious: "If I have to confront this person, pregnant as I am, then I think we know who is a woman and who is a man!"



Australian entrepreneur Sally Grover, left, and her female-only social media and networking platform Giggle

Females-only app owner calls out 'scandalous' probe

CLARISSA BYE

A FEMALE-ONLY chat group using facial recognition software to screen new members is being dragged to the Australian Human Rights Commission (AHRC) to explain why it won't allow men who identify as women to join.

But the founder of the social networking app Giggle, Ms Sall Grover, says the point of the group is to have a "safe space for women" away from men.

Ms Grover, an ex-Hollywood screenwriter now Gold Coast-based mum-to-be, faces an "Orwellian" investigation by the human rights body.

Her popular app uses AI facial recognition computer software to recognise female faces to admit new members, on top of screening by the human eye.

More than 15,000 women from 88 countries have joined since it started in 2020.

But Ms Grover, who says she wants to help women after experiencing sexual harassment during her time in Hollywood, has been informed by the human rights body a complaint of "gender identity discrimination" has been made by transgender woman Roxanne Tickle.

The AHRC has decided to accept the complaint.

It told her if she allows Ms Tickle to join the app and "all other people that identify as female", and undergo "education" about sex, gender and gender identity, during a conciliation process, the complaint will be dropped. Otherwise she faces a threat of the case being taken to the Federal Court.

"What I find quite chilling is the Australian Human Rights Commission is sending me something basically saying I need to be re-educated," Ms Grover said. "That, to me, is the scandal. I am already well educated about this, I just don't believe in gender ideology."

She says female-only gyms and pools exist, and men have male-only Men's Sheds.

"Women are entitled to have a place to connect and chat online and have fun away from the male gaze," she said.

"What the Human Rights Commission is basically suggesting is that it's not my or any other woman's human right to congregate away from males."

She created an app intended as a safe space for women. Little did Sall Grover know it would land her in the middle of a heated discrimination battle



By Cindy Lever

TICKLE v GIGGLE

Photography Justin Walpole

The warm Gold Coast sun is beaming on soon-to-be mum Sall Grover but there's nothing sunny about her mood this morning. As she talks about the upcoming legal challenge to her business, a female-only social networking platform, she struggles to contain her rage. In the final weeks of her pregnancy she should be nesting and preparing for the birth; instead she's gearing up for a battle that will have far-reaching implications not only for her, she believes, but for all women.

It all seemed so simple when she established the free app Giggle in 2019 as a female-only space where women can chat about issues, promote their business, find accommodation, network and share their intimate thoughts with like-minded users. The 37-year-old grew up on the Gold Coast, studying film, journalism and philosophy at Bond University before leaving Australia to fulfil her dream of being a romcom screenwriter in Hollywood. A decade later, after witnessing first-hand misogyny and sexual abuse towards women in Hollywood, she returned home and created the app as a means of therapy for herself and others. Anticipating that some men might try to crash the platform, she took steps to ensure that it could only be accessed by women. "When they [men] decide to really go after us, which they do every few weeks or months, they do it by the high thousands in a short period of time."

So to access Giggle, new members are required to upload a photograph to be verified through facial recognition software to confirm they are female. Grover says it is about 94 per cent accurate and women rarely run into problems; if they do it is often only due to a blurry or highly pixelated image. "If Giggle didn't have gatekeeping to create a female-only platform, it wouldn't be one. It's as simple as that. An onboarding selfie is the easiest, most effective way to do this," she says. The platform soon grew and now connects 20,000 women in 88 countries. "We have women in countries like Saudi Arabia or Orthodox Jewish women where female-only spaces are incredibly important. We have women who are recovering and dealing with trauma, and the space has significance to them in their healing," she explains.

Just weeks after going live in the testing phase, Giggle found itself dealing with the first online attack. The security settings weren't in full effect and some new users left reviews accusing it of being transphobic. Grover was shocked; she never imagined her efforts to create a safe space for women would land her at the centre of a gender war and see her taken to the Federal Court for discrimination, labelled a TERF (trans-exclusionary radical feminist) and receive death threats.

"It's been hell," she says. "It's terrifying and I've had to navigate it all through nine months of pregnancy. I created a social network for women, myself included, where we can relax on the internet away from death threats and toxic male behaviour." While always outspoken about women's rights, she never considered herself an activist. And she still doesn't.

Grover says that during the app development phase it was envisaged that transwomen would be able to contact Giggle if they wished to join, "because honestly we thought we'd be dealing with a minuscule amount of people in this context". However, following the early attacks, this idea was dropped. Worried that some men were claiming to be women to gain access, "we changed the Giggle policy to strictly female-only out of necessity". But by then, the negative comments had stuck. "We did ad testing on Facebook and Instagram, and they got banned for hateful content. Google ads take our reviews into account and because we've been attacked our ads would be pushed to the bottom of the pile," she explains. "We wanted to do equity crowd funding, which would allow women to have ownership in a start-up and have investment in the financial world. No equity crowd funding company would work with us, saying the trans issue was like an open wound."

Despite these setbacks, Grover remained steadfast that the app should be solely for biological women. So, in September last year, when manually checking the screening process, she saw a photo of a person she took to be a man who'd got through the screening and removed the profile. "I thought nothing of it because we'd removed men before and since," she says.

Realising she'd been removed, this person, Roxanne Tickle, emailed Giggle to confirm she was a transgender woman. Grover didn't reply to the email; she says it's impossible to respond to every email. The following month she says she received a text on her personal phone from Tickle, saying she wanted to talk about joining Giggle. "I froze. No other user had ever contacted me on my phone," she recalls. Then on January 20 this year Grover received a discrimination complaint made to the Australian Human Rights Commission by Tickle. The following day Tickle tweeted that she would be incurring quite a few expenses for her advocacy work this year and needed funding. On her Ko-fi page (a platform for collecting donations) she says: "I spend a lot of my 'spare' time and expend a lot of emotional energy drawing attention to our (already!) legally protected rights and helping cis people at least try to understand what it means to be trans."

In her complaint Tickle stated she believed she was being discriminated against by Giggle because she is a transgender woman. "The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female."

"It's been hell": Sall Grover

Tickle called upon Giggle management to undergo education on sex, gender and gender identity and she wanted full access to the app for herself and other people identifying as female.

Grover refused to give ground. She says that, based on what Tickle was and still is seeking, conciliation would have resulted in her business and the space she's created for women around the world being destroyed. "Roxanne wants all males identifying as women to be allowed on, and any offensive comments to transwomen made on the app moderated," she says. "And for me to go to sex and gender education. I am educated on sex and gender; I just don't agree with their ideology. I am never going to agree with those things. It renders my company useless and takes away my own human rights."

Unable to reach conciliation, Tickle took the matter to the Federal Court alleging unlawful discrimination under the *Australian Human Rights Commission Act 1986*. When she was served the papers, a heavily pregnant Grover says she burst into tears. "I felt shattered. My first thought was, the first year or two of my daughter's life will be spent doing all of this," she says. "I feel like I'm in in the midst of a nervous breakdown, like I'm under surveillance. When we created the app we did not think we'd be fighting something like this that could be a landmark legislative case for Australia."

Tickle, 53, from Lismore, issued a statement saying that "as there is a legal process unfolding, I would prefer not to comment at this stage". In the court documents Tickle said that although her sex at birth was male, she has had her birth certificate reissued to say she is a female and a letter from her physician confirming her gender is female. She is claiming discrimination in relation to comments from Grover "that she considered transgender women, including the applicant, to be male" and is seeking damages, an apology and full access to the app. "I believe Giggle and Sall Grover have decided in error that I am male and have declined to grant me full access to the app."

Christine Quinan, a lecturer in Gender Studies at the University of Melbourne, says the issue of allowing transwomen into women's spaces is charged and contentious. Quinan believes the Automatic Gender Recognition technology used by Giggle relies on an outmoded understanding of gender and reinforces marginalisation of trans people, preventing them from fully participating in society. "We cannot underestimate the impacts on health and wellbeing when trans and gender diverse people are continually asked to prove their legitimacy and to prove their very existence," they said. "While biometrics and statistical surveillance supposedly provide proof that we are who we say we are, that burden of proof is unduly placed on those who do not 'match' expected norms, facilitating exclusionary, rather than inclusionary goals."



Equal access: Anna Brown

Equality Australia CEO Anna Brown says discrimination laws exist to ensure everyone has equal access to participate in public life on equal terms. "Women who are trans experience extraordinary rates of abuse, sexual assault and discrimination – often at the hands of men," Brown says. "The resulting social isolation drives some of the worst mental health outcomes in the community, with research revealing that almost one in two transgender people have attempted suicide." She says service owners and providers including online platforms and apps have the responsibility to ensure people can access their service without discrimination. "Products marketed for women must be inclusive of all women."

Having experienced exclusion and discrimination first-hand, Tasmanian trans advocate Martine Delaney has spent 20 years fighting for trans rights and legislative reform. She feels trans people are being sent a clear message they are not welcome and are being denied access to crucial parts of life, including the ability to connect. "Giggle seems to be saying you are not welcome because our view is you don't belong in this community despite what the law may say," Delaney explains. "It is saying we are going to put a chromosome line in the sand, and it doesn't matter who you are as an individual and how you conduct yourself, but if you are trans you are not welcome here. So, it cannot be anything but discriminatory. It's a damaging message for people to get and the trans community is probably one of the most marginalised people already. It assumes all transwomen are unsafe. It assumes all cis women are safe."

Advocate: Martine Delaney



Delaney believes Giggle should have a system that allows transwomen access but not males and that if the inclusion of transwomen on the app offends some women, then they have the ability to remove themselves. While she praised Tickle for bringing the action, she said she had "mixed feelings" about the court case. "In the current climate, it gives more ammunition to exclude trans people," she says. "It is not helped by trans activists giving Sall a hard time. Attacking is not of any real value."

Grover's lawyer Anna Kerr, principal solicitor at the Feminist Legal Clinic, contends the case goes to the heart of defining what is a woman and that the implications will be far-reaching. Kerr says the Commonwealth *Sex Discrimination Act 1984* allows for "special measures" to advance women's substantive equality and provides for the exclusion of males where it is reasonable in all circumstances. However, state-based laws, which she says conflate the concepts of biological sex and socially constructed gender identity, enable males to claim to be "legally female" and thereby render these Commonwealth provisions effectively inoperable.

"This case will be the first to examine whether state laws that allow for change of sex are inconsistent with the operation of Commonwealth laws designed to advance affirmatively women's substantive equality," says Kerr. "If found to be inconsistent with Commonwealth laws, this would render state laws allowing for change of sex on birth certificates and official documents invalid under section 109 of the Australian Constitution."

She says the case will also examine how the 2013 amendments to the *Sex Discrimination Act* adding gender identity as a protected attribute should be interpreted to avoid internal inconsistencies that arise if males who have a trans identity are required to be recognised as women in all contexts. "If sex and gender/gender identity are to

be protected as distinct attributes, they must be clearly defined at law," she says. "Laws in all Australian jurisdictions that purport to protect the rights of women and girls as a sex class must now unequivocally distinguish sex from gender/gender identity."

Kara Dansky is a US lawyer, women's rights campaigner and author of the book *The Abolition of Sex: How the 'Transgender' Agenda Harms Women and Girls*. Like Kerr, Dansky fears women are on the brink of losing hard-fought rights and that Australia is moving down the US path. "The Biden administration has redefined the word sex to include gender identity throughout US Federal administrative law," Dansky says. "All of Biden's orders on this topic are currently subject to federal litigation. Nonetheless US Federal agencies are proceeding to annihilate women's rights at the altar of gender identity.

"It ought to be universally understood that women ought to have rights to our opinion and assembly without men," she adds. She believes Giggle is an important virtual space for women and if Grover were to lose the case it would be a backward step for women.

Grover has been bolstered by the support and



"I WON'T STOP FIGHTING"

insists she and Giggle are not anti transgender. (Giggle does allow trans men – women who identify as men – on the platform.) "I don't care if you want to identify as a woman and live your life that way, I only care if you want to come into a female space," she says. "I am not a gender feminist. I want no labels. I am just a woman."

Grover says she is now regularly trolled online. "For the most part I don't take it personally anymore, although there are some days that are harder than others. The trolling of women online by men is why we started a social network where that is not possible. We created this app for women, and I have spent two and half years, every day having to think about men."

Now embroiled in a court case, how far is Grover prepared to take it? "We will go as far as we have to go. We have to go with what is right.

"Having found out that I'm going to have a daughter during this whole process has only made the fight more personal," she adds. "It's my job to protect her and part of that is protecting her rights. I won't stop fighting until I know for sure that she can go to a change room or Girl Guides or use a female-only app and know it is truly for females." ●



Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

ANNEXURE "RT-11"

A true copy of some of the posts that have been made about the television and podcast interviews that Ms Grover has participated in.

This is the exhibit marked "RT-11" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant

8:14

Sall Grover
34.9K Tweets

Follow

Tweets | Replies | Media | Likes

Sall Grover @salltweets · 57m

"I think one of the rights that [trans people] have is to know that no human being has ever changed sex... I don't think saying this is being hateful to trans people at all. I think this is actually treating them with respect."

Full clip: youtube.com/live/YGYkUybpt...



1,667 views

11 56 232 4,210



Female-only app founder defends banning a trans woman from Giggle for Girls

April 13, 2021 - 9:57PM sky news .com.au

The founder of a female-only app Giggle for Girls Sally Grover is set to defend her decision to bar a transgender woman from joining the platform after a federal court case was brought against her claiming discrimination.

"This case is about sex it's not about gender, I discriminated on the basis of sex," she told Sky News host Andrew Bolt.

"A woman is an adult human female and that was excepted by everybody until men decided that they wanted to be women and the only way for a female-only space to exist is if it excludes males so we're going to be arguing that."

Up Next



Andrew Bolt
Last Night of the Proms has become a 'political battleground'

Andrew Bolt
Victorian councillor forced to apologise for 'hurtful' anti-transgender posts



Andrew Bolt
Chinese President not going to India a 'tremendous snub' to Narendra Modi



Andrew Bolt
'Great danger': Failure of Voice must be defined by its 'fundamentally racist proposition'



Advertisement

iShares

2:34

← Tweet

Sall Grover Retweeted

MilkBarTV ✓
@TheMilkBarTV

MilkBarTV Podcast with guest @salltweets:

Sall Grover talks about having to defend herself in Australian Federal Court against a Humans Rights Violation for not allowing a Man/"Transwoman" Roxanne Tickle onto her female only app Giggle.

This case has the potential to legally define the definition of 'Woman' in Australia.

Support MilkBarTV: patreon.com/MilkBarTV





Feminist Legal Clinic

4 Jun ·

Today I'm speaking with Sall Grover, an Australian businesswoman who is the co-founder of the female only networking app Giggle, and I can tell that you are already guessing where this story is going. Roxanne Tickle, a man who identifies not just as a transwoman but as female is taking Sall to court and saying that his gender identity is protected under the Sex Discrimination Act, because unfortunately, Australia passed this bonkers law a few years ago....

feministlegal.org

Tickle v Giggle (or is it Giggle v Tickle?)

Like Comment Share

10:39

Tweet

MilkBarTV
@TheMilkBarTV

MilkBarTV Podcast with guest @salltweets:

Sall Grover talks about having to defend herself in Australian Federal Court against a Humans Rights Violation for not allowing a Man/"Transwoman" Roxanne Tickle onto her female only app Giggle.

This case has the potential to legally define the definition of 'Woman' in Australia.

Support MilkBarTV: patreon.com/MilkBarTV



1:14 pm · 31/5/2023 from Earth · **9,299** Views

4:46

Sall Grover
37K Tweets

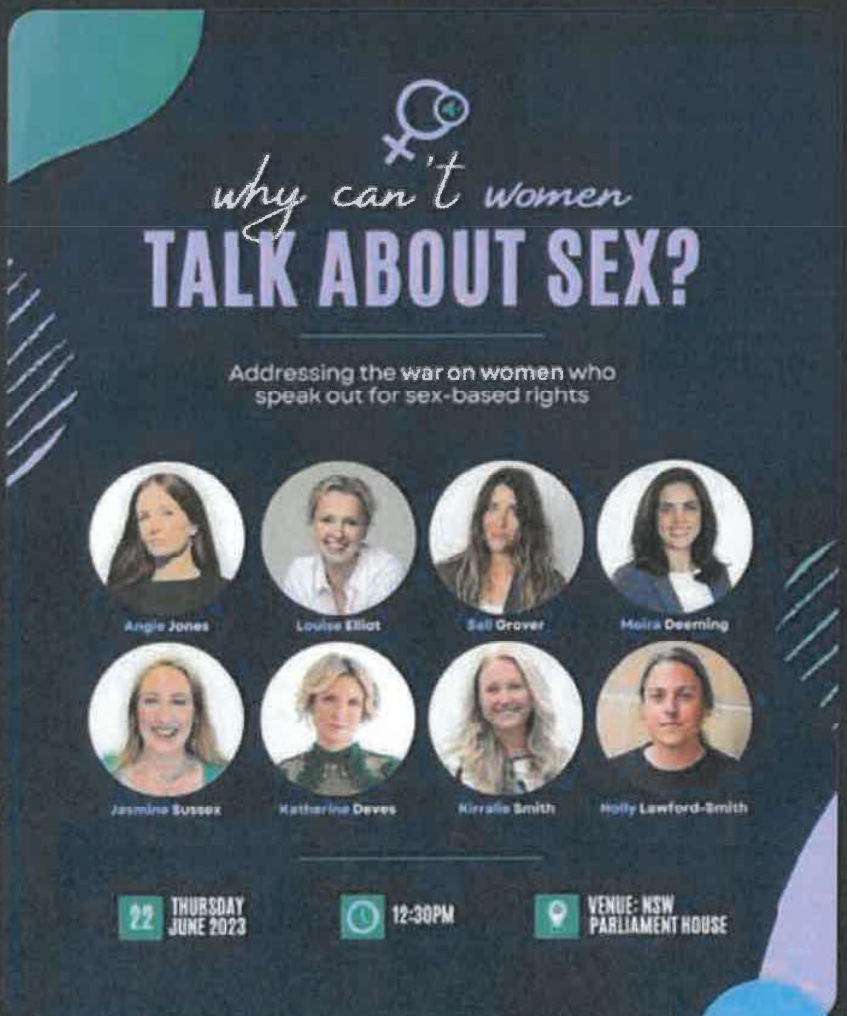
Follow

Tweets Replies Media Likes

Sall Grover @salltweets · 16m

Next week I will be speaking at New South Wales parliament with these amazing women about womens sex-based rights.

All of us have been punished socially, professionally and/or legally, because we dare to state the truth that women are adult human females & no man can be one.



Angie Jones and 3 others

6 22 104 1,282

2:51

← Tweet



Sall Grover ✓
@salltweets

I'll be on TNT radio with @chrissmithonair at 3:30pm talking about the already infamous 4 Corners episode, male sex offenders using trans laws as a loophole to womens prisons, censorship and, of course, Tickle V Giggle.

Tune in! 💁‍♀️

Listen here:
tntradio.live

1:42 pm · 11/7/2023 from Earth · **1,202** Views

10 Retweets **27** Likes

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

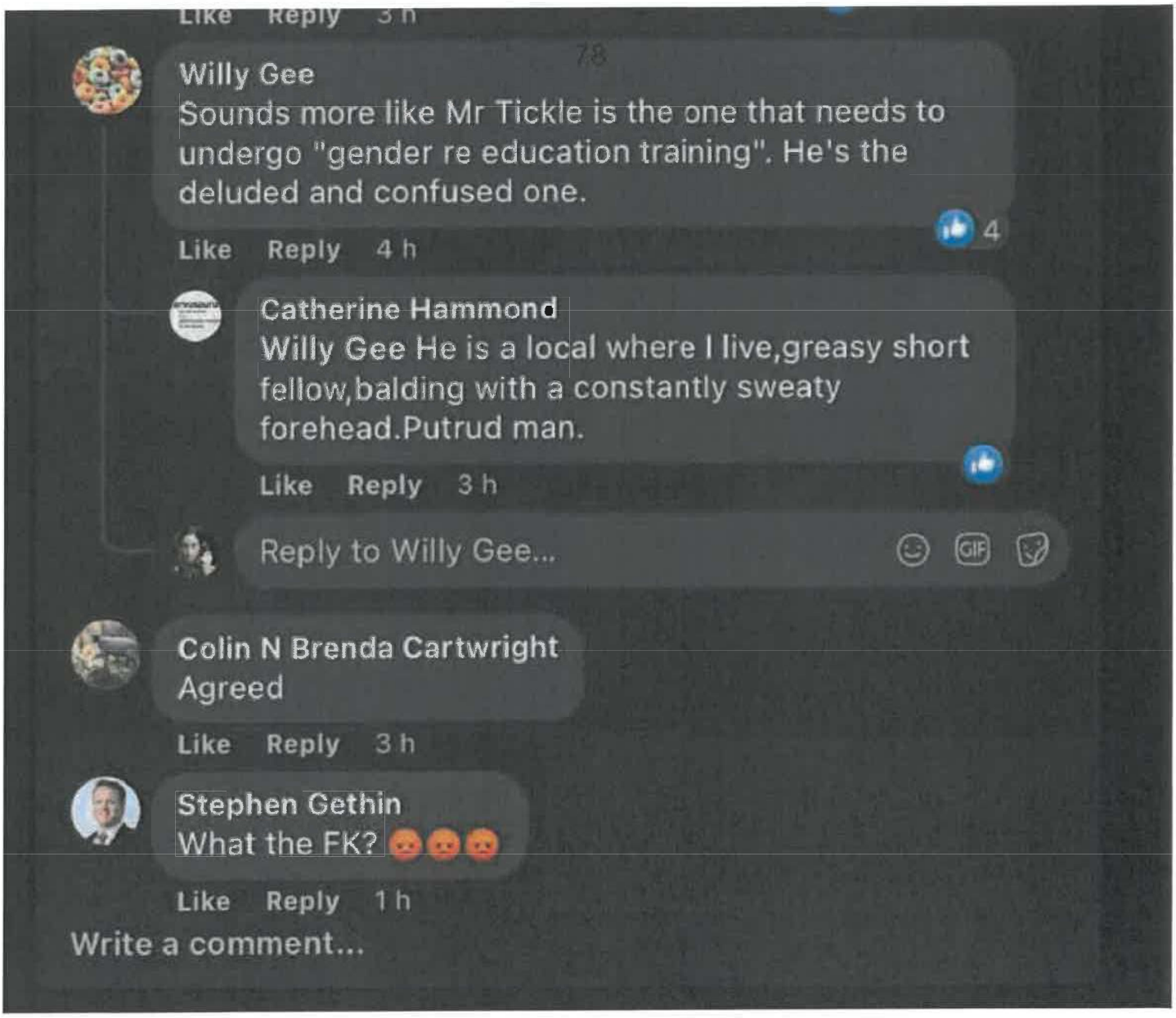
ANNEXURE "RT-12"

A true copy of some of the online messages that the Applicant has received and some of the online comments that have been made about the Applicant.

This is the exhibit marked "RT-12" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant


Like Reply 3 h
Willy Gee
Sounds more like Mr Tickle is the one that needs to undergo "gender re education training". He's the deluded and confused one.
Like Reply 4 h
4
Catherine Hammond
Willy Gee He is a local where I live,greasy short fellow,balding with a constantly sweaty forehead.Putrud man.
Like Reply 3 h
Reply to Willy Gee...
GIF
Colin N Brenda Cartwright
Agreed
Like Reply 3 h
Stephen Gethin
What the FK?
Like Reply 1 h
Write a comment...

7:29

beejaybauer
beejaybauer20231987



beejaybauer

beejaybauer20231987 · Instagram
0 followers · 0 posts
You don't follow each other on Instagram
New Instagram account

View profile

00:04

YOU ARE A MAN, NOT A WOMAN!
GIGGLES IS NOT FOR YOU!

Accept message request from beejaybauer (beejaybauer20231987)?

If you accept, they will also be able to call you and see info such as your activity status and when you've read messages.

Block Delete Accept



A$ Create Order Order history Saved

Aa

2:07
◀ Facebook

Heather Vella



Heather Vella

Facebook

You aren't friends on Facebook

13:51

So you can choose who you accept as a friend yet you insist on being accepted to the giggle site. Bit, a lot h ritical don't you think.

Aa

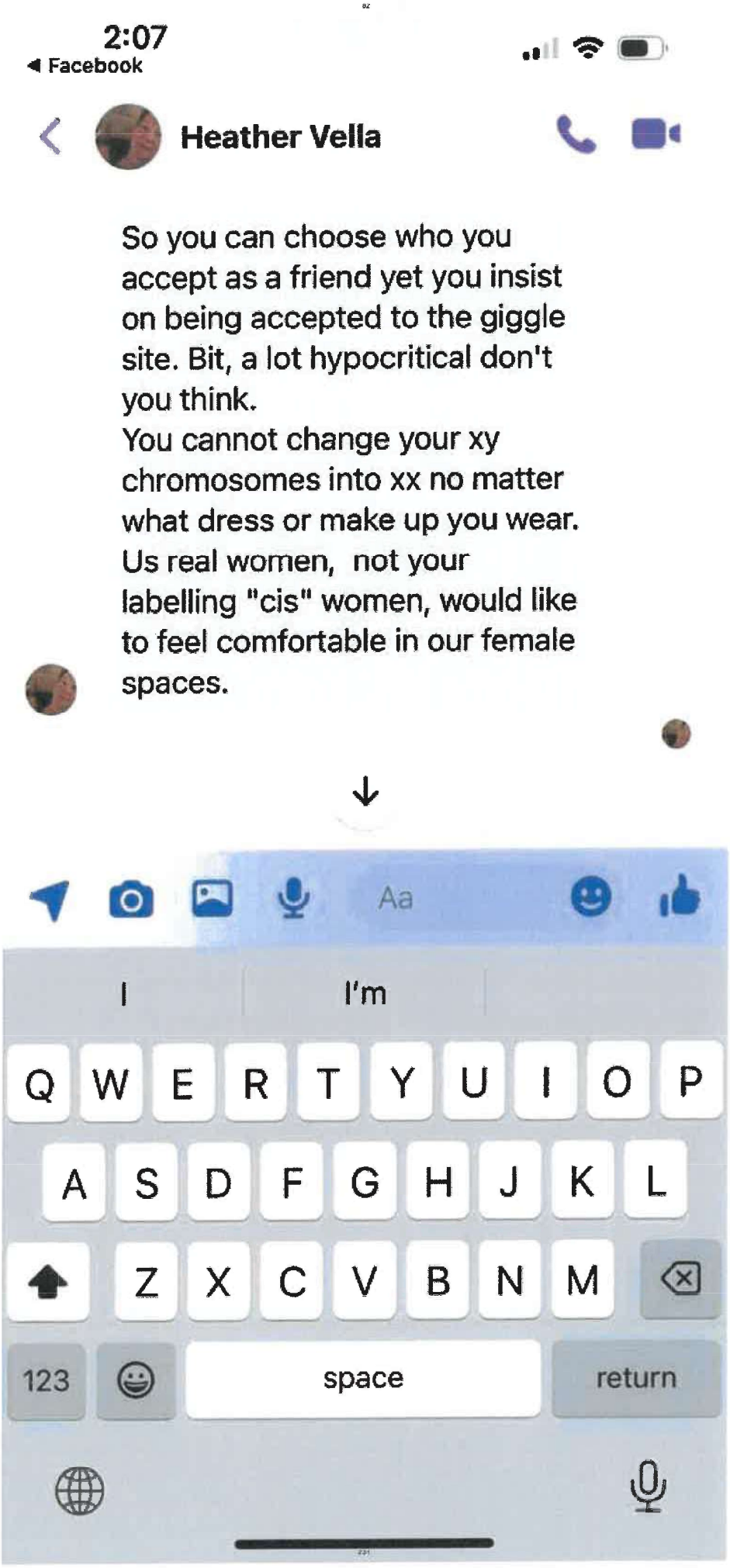
I I'm

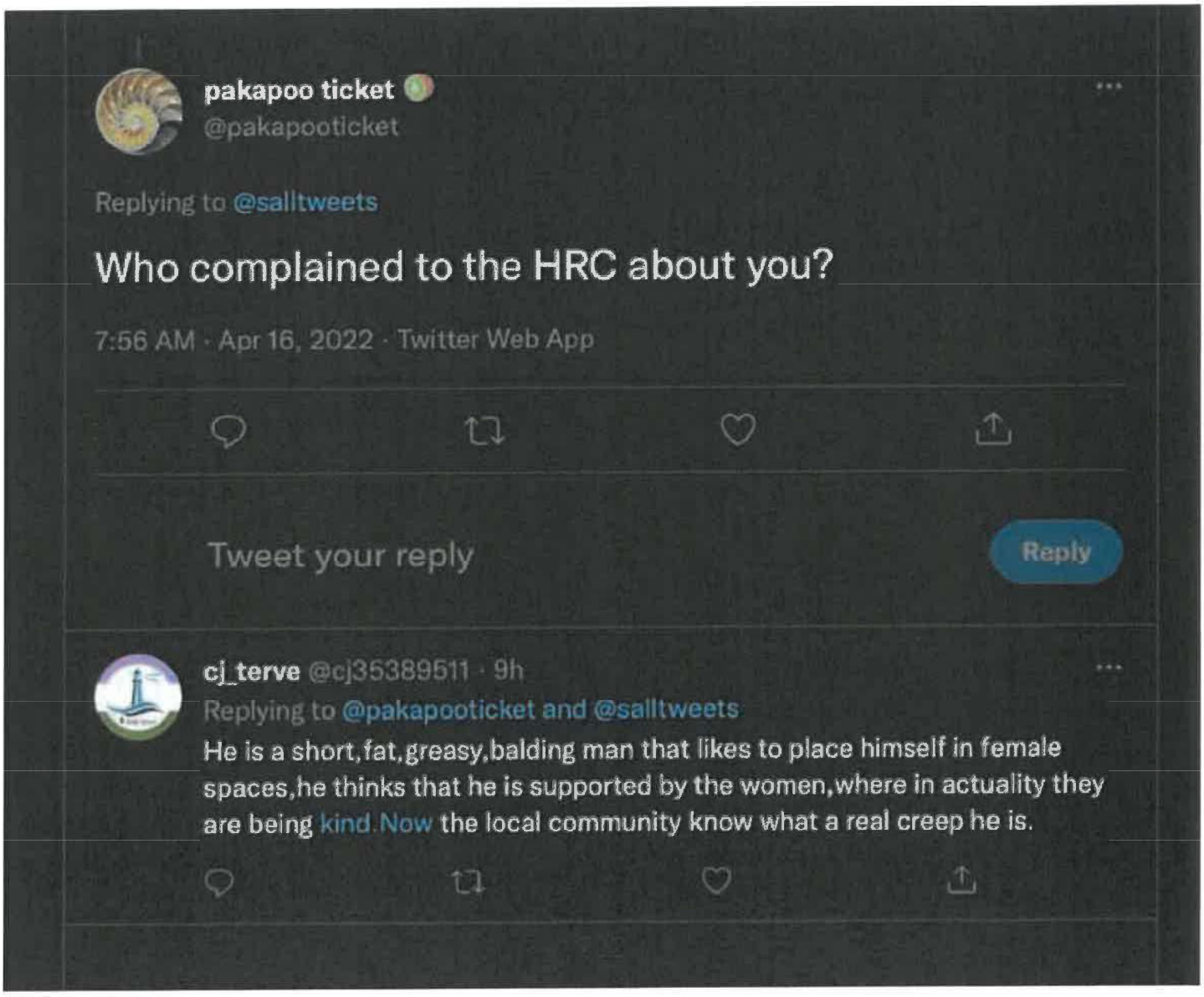
Q W E R T Y U I O P

A S D F G H J K L

Z X C V B N M

123 space return


2:07
Facebook
Heather Vella
So you can choose who you accept as a friend yet you insist on being accepted to the giggle site. Bit, a lot hypocritical don't you think.
You cannot change your xy chromosomes into xx no matter what dress or make up you wear.
Us real women, not your labelling "cis" women, would like to feel comfortable in our female spaces.
Aa
I
I'm
Q W E R T Y U I O P
A S D F G H J K L
Z X C V B N M
123
space
return



pakapoo ticket
@pakapooticket

Replying to @salltweets

Who complained to the HRC about you?

7:56 AM · Apr 16, 2022 · Twitter Web App

Tweet your reply

Reply

cj_terve @cj35389511 · 9h

Replying to @pakapooticket and @salltweets

He is a short,fat,greasy,balding man that likes to place himself in female spaces,he thinks that he is supported by the women,where in actuality they are being kind.Now the local community know what a real creep he is.

6:58

Tweet



Roxy Tickle [redacted] · 28/4/2023

I have learned a new legal term today: comfort stop.

3 3 1,005



QUEER THEORY IS MENS RIGHTS! 💚...

@TerfHappy

Is that when you need to adjust your smelly Poxy Tackle?

7:26 pm · 28/4/2023 from Earth · **65** Views

1 Like

2:07

roxy tickle

Top Latest People Photos Videos

Dr Alan Bleaching. PpDc DPhil(a) · 39m

Peaky awards, to recognise the work of TRAs and Troons who have woken large numbers of people to the madness of GenderWoo.

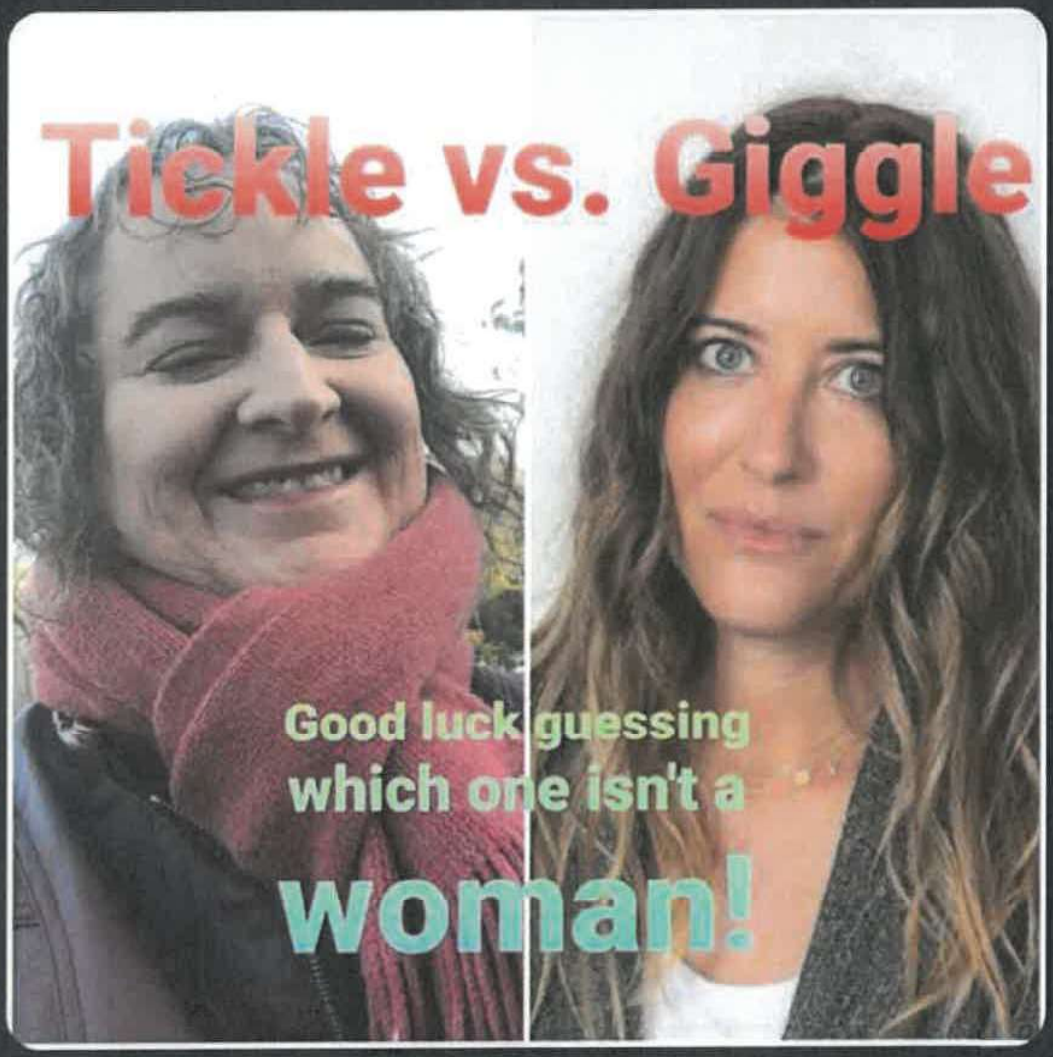
Sweaty, grubby looking hockey cheat and vexatious litigant "**Roxy**" **Tickle**, currently peaking many by suing @salltweets for excluding men from an app.



2 10 27 256

3:06

Tweet



7:06 am · 1/6/2023 from Earth · **2,847** Views

3 Retweets **2** Quotes **21** Likes

Northern Soul ♀ @Isdemocracydead · 7h

until they speak

1 2 49

← Post

Binky
@TheOnlyGuru

Are you a biological female? [redacted]

I ask because you appear to claim you're a 'trans woman' but you're obviously a man.

You have no right to be in female only spaces, or joining female only apps.

The clue is in the word 'female'.

You are a male.

#ThisIsRoxyTickle pass it on.

#adulthumanfemale
#womenwontwheest
#QLD



9:21 PM · Jun 7, 2023 · **176.6K** Views

404 Reposts **29** Quotes **2,413** Likes **25** Bookmarks

Post your reply! Reply

Rabbi Zvi Solomons @RabbiZvi · Jun 8
Roxy slap?
🤔
2 32 6,418

Binky @TheOnlyGuru · Jun 8
I've laughed too much 😂
12 5,720

Melindi Scott @melindiscott · Jun 7
Dirty old man
3 1 366 11.7K

Binky @TheOnlyGuru · Jun 7
Creckt
48 10.8K

Edgar Friendly @reaverman · Jun 7
Looks like James May, after a heavy session!
5 98 12K

12:55

Tweet



Julie Bindel
@bindelj

Please support @salltweets, who is currently being dragged through the courts by a total narcissistic misogynist:
Tickle v Giggle (or is it Giggle v Tickle?) by @bindelj open.substack.com/pub/juliebinde...

6:19 pm · 1/6/2023 from Earth · **6,814** Views

35 Retweets **1** Quote **128** Likes **3** Bookmarks

5:52

Tweet



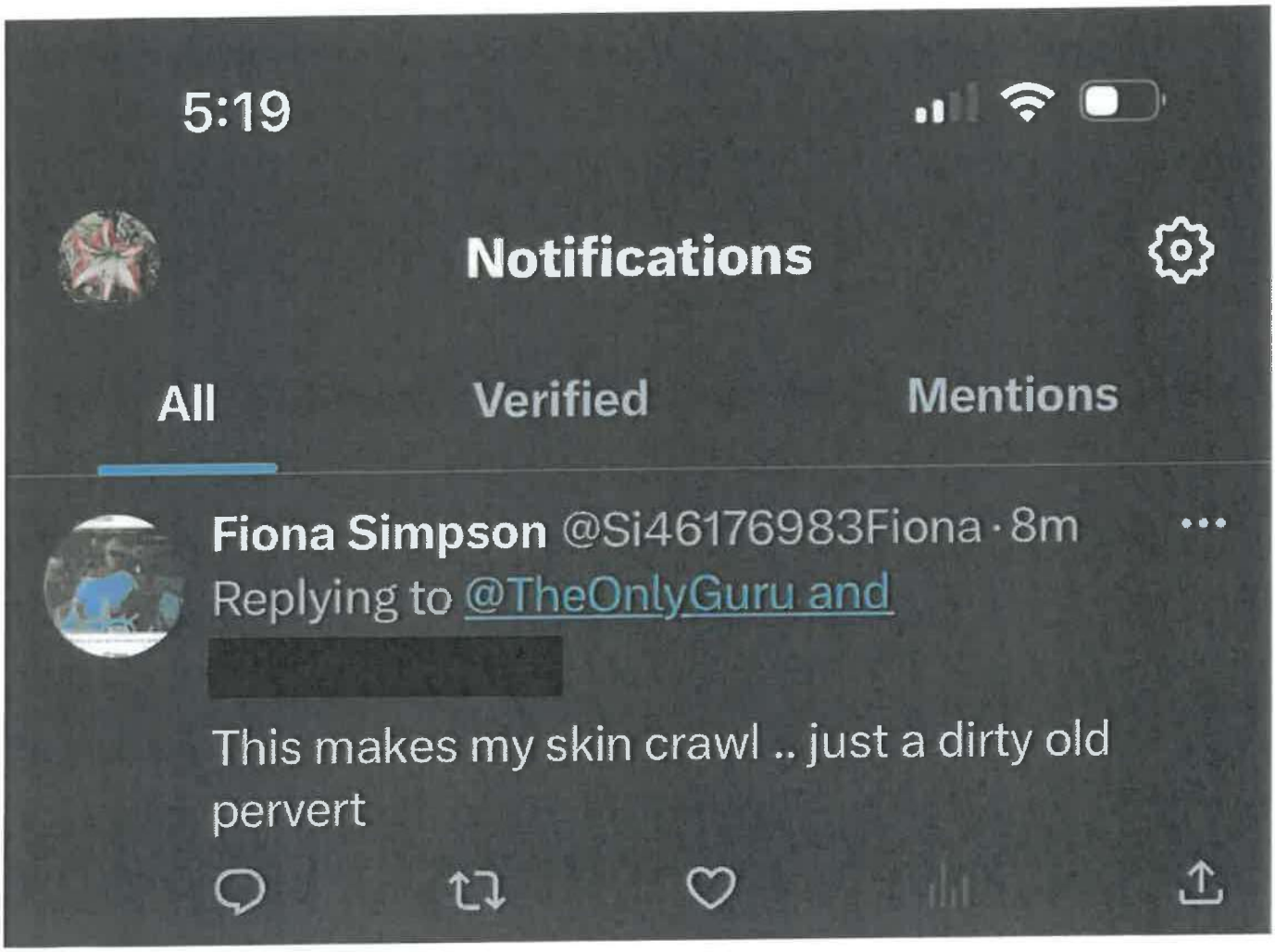
Comrade Billy Bragg (Fraser Anderson)
@FraserDAnderson

[redacted] Tickle's autogynophile dressup name is "Roxey".

Whatever gets him off I guess... 🤢🤮

1:52 pm · 2/6/2023 from Earth · **130** Views

1 Retweet **5** Likes


5:19
Notifications
All
Verified
Mentions
Fiona Simpson @Si46176983Fiona · 8m
Replying to @TheOnlyGuru and
[redacted]
This makes my skin crawl .. just a dirty old pervert

11:01

Sall Grover
112.8K Likes

Follow

Tweets Replies Media Likes

Penelope Rose Parker @Penelope_R... · 2h

Mr Tickle needs to pack up his balls & fuck off.

Please, if you can, support @salltweets on providing a genuinely woman's only space.

💛

P.S. Don't laugh at the fact I mixed them up, because tickle v giggle sounds so fake! 😂

I have ADHD, so pander to me bitches 🐝

> **Sall Grover** @salltweets · 3h
>
> The Tickle V Giggle battle is set for April 9 2024. Until then it's all preparing, peaking & fundraising to pay for it.
>
> "This case squarely raises the collision of rights between women's sex-based rights & the rights of those who claim a gender identity"
>
> gigglecrowdfund.com
>
> **Tickle v Giggle**
>
> Federal Court, Sydney, Austra

8:52

Tweet

Dr Alan Bleaching. PpDc DPhil(a)
@alanbleaching

You can pass all the self id laws you like Queensland, but nobody is ever going to think sweaty grubby man Roxy Tickle is anything other than a sweaty grubby man.



8:48 pm · 15/6/2023 from Earth · **47** Views

4 Likes

Phlegm Fatale 💚🤍💜🦕 @FlemP... · 1m
Yep! That's a bloke alright! 😂
Blimey!

5:02

OlderNWiser 💚🤍💜🦘♀

@NWiser8



2:59 pm · 21/6/2023 from Earth · **51** Views

12:59

tickle v giggle

Top Latest People Photos Videos

Jess 💜🤺💚 @anonotanon · 4h

Literally deluded.

gigglecrowdfund.com
#somaticallyfemale #justsayman
#ticklevgiggle #ThisIsRoxyTickle



MrMenno 🏳️‍🌈🎶 @MrMennoTwe... · 7h



Get your dancing shoes on, here's... 🎶 "Somatically Female (He's a Man!)" 🎶💃🕺...

1 9 130

10:45

Mairi @theyogilawyer · 2h

'Roxy Tickle' (real name 🤔) suing the owner of a female only app called Giggle for refusing access. Case has made it to the Federal Court. This is Roxy - stunning and brave, no?!



1 14

Kenster - The Highland Blue @blu... · 2h

That's a hard wank.

1 16

Mairi @theyogilawyer · 2h

😂😂😂

2 1 20

Kenster - The Highland Blue @blu... · 1h

Not unavhievable, but fucking difficult

7

9:29

Tweet



abc.net.au
Victorian laws changed to stop the forced divorce of transgender people

2 3 123

Roxy Tickle [redacted] · 1h
That it took up to a year after "marriage equality" for trans people to experience marriage equality was a travesty.

1 1 2 237

LGB_Kaley
@GenX_Lesbian

Visibility limited: this Tweet may violate Twitter's rules against Hateful Conduct. Learn more

Trans ppl got married in 2001 in Australia you fucktard. Also ..
Keep tf out of woman spaces you disgusting fetished male pos!

8:48 pm · 20/7/2023 from Earth · **13** Views

6:14



12 82 372 5,411

lily weatherwax
@WarriorGrrl

Mr Tickle is the perfect clown name

10:36 pm · 28/7/2023 from Earth · **142** Views

3 Likes

More Replies

Abi Smith @UnicornsFly0529 · 17h
Or the perfect pedo name.

4

3:49

Review posts and tags

Review posts you're tagged in Settings

Paul Campion
44 m ·

Research shows that people who claim they are the opposite Sex to what they are born, cannot change their scent ! No matter what they do ! The scent of a biological woman is determined by pheromone and the scent of a biological male is Androstenol (fresh male sweat that is attractive to women) and Androstenone (less fresh ,exposed to oxygen and repulsive to women unless they are ovulating) ! Males who claim to be female will only ever smell like males and vice versa , no matter what deodorants or perfumes they use to try and disguise their smell ! Biological Men and Women can smell right through it ! When this goes to the high court with Tickle V Giggle ! Scent will be one of the truths on offer to prove what being a female is !

2 4 comments

Like Comment Share

Hide

Add to Profile

Review tags on your posts Settings

Home Friends Marketplace Profile Notifications Menu

← **Post**

Martina Navratilova @Martina · Aug 31
This is so effed up. Come on Australia- wake up!!!!

> **Colin Wight** @colwight · Aug 31
> Australia leading the way in destroying female sports. @sharrond62 @Martina dailymail.co.uk/sport/otherspo...

55 367 2,058 97.6K

Rachael Davies @rachnewport · Aug 31
Martina I love you, but two things - is this a reputable source? No. We are woke here. No guns, universal health care to name a few. Stop being Margaret Courtesque on this issue.

18 4 683

Roxy Tickle [redacted] · Aug 31
🍋

1 134

Kris M.
@its_not_o_kay

"Roxy Tickle" here is a repugnant man larping as a woman who just loves to invade women's spaces. He's currently suing @salltweets in the Aust Fed Court claiming discrimination bc he was barred from having access to her female only app. He wants to listen in on women @Martina

10:20 PM · Aug 31, 2023 · **26** Views

1 Repost **3** Likes

Exhibit Certificate

No. NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights Division

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD

First Respondent

SALLY GROVER

Second Respondent

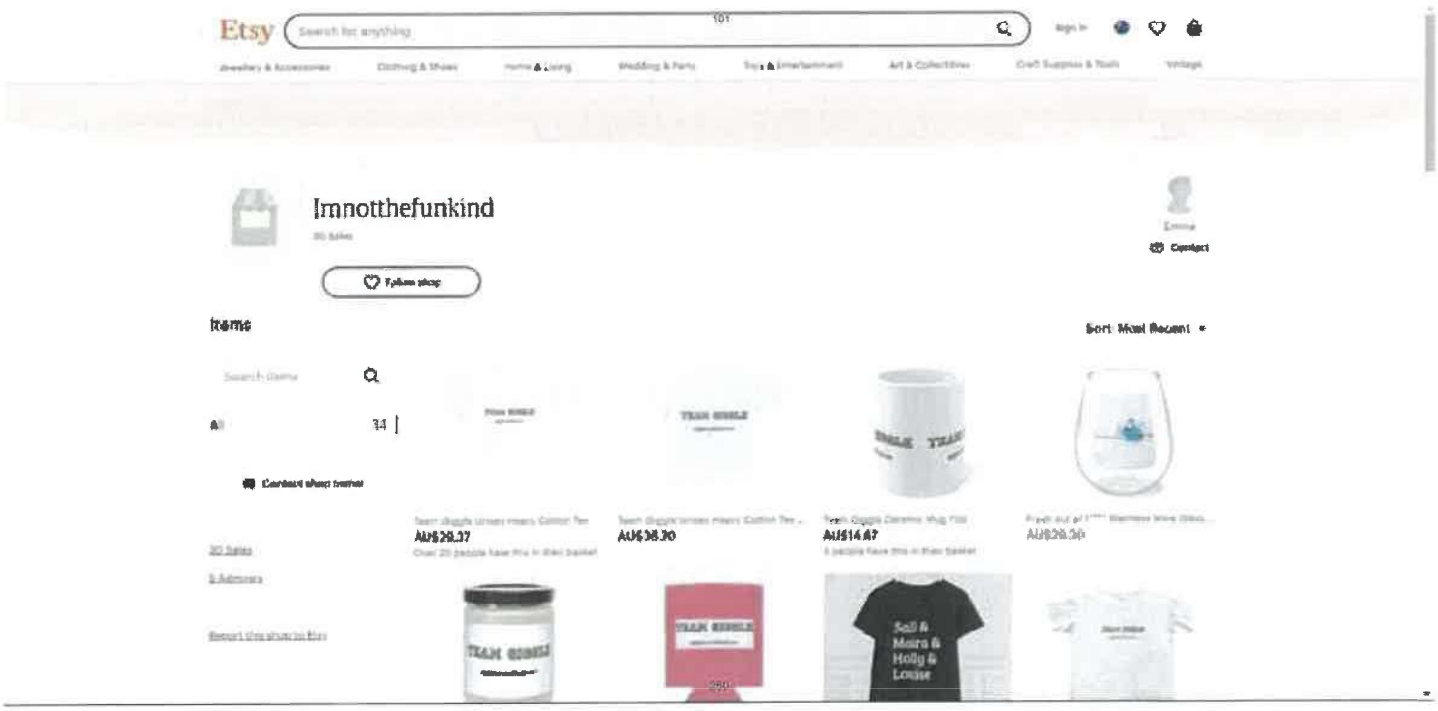
ANNEXURE "RT-13"

A true copy of the merchandise a supporter of Ms Grover is selling through Etsy.

This is the exhibit marked "RT-13" now produced and shown to Ms Roxanne Tickle at the time of affirming her affidavit on 13 September 2023 before me.

Tinashe Makamure

Solicitor for the Applicant


Etsy
Search for anything
Imnotthefunkind
Items
Sort: Most Recent
AU$29.27
AU$38.30
AU$14.87
Sall &
Moira &
Holly &
Louise



Team Giggle Unisex Heavy Blend Hood...
AU$68.67



Team Giggle Pet Bandana Collar
AU$36.07



Team Giggle Tote Bag
AU$51.53



Team Giggle Trucker Cap
AU$31.33



Fighting Women Natural Tote Bag
AU$23.83



Four Fighting Women Tote Bag (AOP)
AU$48.47



Fighting Women Tote Bag (AOP)
AU$48.47



Fighting Women Cotton Tee
AU$33.43
3 people have this in their basket



Men don't breastfeed Stickers
AU$3.97



Unisex Say It Off Twitter Crewneck Swe...
AU$45.87



Harden up Sunshine Tough Phone Cases
AU$34.83



Bottle Opener
AU$23.77



Team Giggle Unisex Heavy Cotton Tee
AU$29.37
Over 20 people have this in their basket



Team Giggle Unisex Heavy Cotton Tee ...
AU$36.70



Team Giggle Ceramic Mug 11oz
AU$14.67
3 people have this in their basket



Fresh out of F**** Stemless Wine Glass, ...
AU$29.30



Team Giggle Scented Soy Candle, 9oz
AU$37.30
3 people have this in their basket



Pink Team Giggle Can Cooler
AU$12.10



Women Fighting Black Cotton Tee
AU$49.07
4 people have this in their basket



Team Giggle Toddler's Fine Jersey Tee
AU$26.70



Five Fighting Women Cotton Tee
AU$33.43
4 people have this in their basket



Unisex Fighting Women Hooded Sweat...
AU$81.53



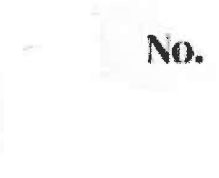
Five Women Fighting Black Cotton Tee
AU$49.07



Team Giggle Can Cooler
AU$12.10



F*** Everything Bottle Opener
AU$23.77



Fabric Face Mask
AU$16.37



Unisex I'm not a vet Short Sleeve Tee
AU$43.03

Unisex Sorry about your Short Sleeve T...
AU$43.03



Unisex Fresh Out of F**** Crewneck Sw...
AU$45.87

He's a man Crewneck Sweatshirt
AU$45.87

Women's I don't believe him Cotton Tee
AU$33.43

Unisex No Cat Hooded Sweatshirt
AU$68.67



Do You Even Plant Bro Unisex Tee
AU$48.87



Women's Harden Up Sunshine Cotton T...
AU$33.43

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$45.87+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

He's a man Crewneck Sweatshirt

✓ Returns & exchanges accepted

Sizes *

Select an option

Add to basket

Highlights

Handmade

Description

Ideal for any situation, a unisex heavy blend crewneck sweatshirt is pure comfort. These garments are made from polyester and cotton. This combination helps designs come out looking fresh and beautiful. The collar is ribbed knit, so it retains its shape even after washing.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage







AU$33.43+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Women's I don't believe him Cotton Tee

Imnotthefunkted

✓ Returns & exchanges accepted

Sizes *

Select an option

Add to basket

Highlights

Handmade

Description

What's better than a soft, light cotton, quality t-shirt in your wardrobe? This comfy, contoured 100% cotton tee offers a semi-fitted silhouette and is pre-shrunk to ensure it stays a staple for longer. It features cap sleeves and a taped neck and shoulders.

100% cotton/tee contoured may vary for different

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$43.03+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Unisex I'm not a vet Short Sleeve Tee

iamnotthefunkind

✓ Returns & exchanges accepted

Size *

Select an option

Add to basket

Highlights

Handmade

Description

This classic unisex jersey short sleeve tee fits like a well-loved favorite. Soft cotton and quality print make users fall in love with it over and over again. These t-shirts have ribbed knit collars to bolster shaping. The shoulders have taping for better fit over time. Dual side

Reviews ☆☆☆☆☆

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Pets | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage





AU$3.97

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Men don't breastfeed Stickers

Innotthefunkind

✓ Returns & exchanges accepted

Type *

Select an option

Quantity

1

Add to basket

Highlights

Handmade

Description

- Material: 100% vinyl with 3M glue
- Comes in 4 sizes
- White or transparent
- Gray adhesive left side for white stickers
- For indoor use (not waterproof)

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$43.03+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Unisex Sorry about your Short Sleeve Tee

[illegible]notthehunkind

✓ Returns & exchanges accepted

Size *

Select an option

Add to basket

Highlights

Handmade

Description

This classic unisex jersey short sleeve tee fits like a well-loved favorite. Soft cotton and quality print make users fall in love with it over and over again. These t-shirts have ribbed knit collars to bolster shaping. The shoulders have taping for better fit over time. Dual side

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$46.87+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Unisex Say It Off Twitter Crewneck Sweatshirt

Innotheleastkind

✓ Returns & exchanges accepted

Sizes *

Select an option

Colors *

Select an option

Add to basket

Highlights

Handmade

Description

Ideal for any situation, a unisex heavy blend crewneck sweatshirt is pure comfort. These garments are made from polyester and cotton. This combination helps designs come out looking fresh and beautiful. The collar is ribbed knit, so it retains its shape even after washing.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$12.10

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Pink Team Giggle Can Cooler

innotheturkind

✓ Returns & exchanges accepted

Size *

Select an option

Quantity

1

Add to basket

Highlights

Handmade

Description

Made to keep your drinks crispy fresh and cool-looking, these can insulators are the best companion for nature trips and parties. They're super lightweight and will fit in any backpack.

.: Polyester exterior and black soft foam liner interior
.: Available in Two Sizes: Regular Can (3.5" x 4.3") and Slim Can (3.5" x 6")

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage



AU$31.33

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Trucker Cap

Innerthelunkind

✓ Returns & exchanges accepted

Add to basket

Highlights

Handmade

Description

A 100% polyester front and 100% nylon mesh weave back make these hats super durable through regular wear and tear. They come in one size with an adjustable plastic snap closure. 22.8" (58cm). The cap's front has six rows of stitching. Pick any (or all) of the four

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Learn more about this item

Delivery and return policies

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$68.67+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Unisex Heavy Blend Hooded Sweatshirt

smoothefunkind

✓ Returns & exchanges accepted

Size *

Select an option

4 interest-free payments of $17.18. Klarna. Learn more

Add to basket

Highlights

Handmade

Description

This unisex heavy blend hooded sweatshirt is relaxation itself. Made with a thick blend of cotton and polyester, it feels plush, soft and warm. a perfect choice for any cold day. In the front, the spacious kangaroo pocket adds daily practicality while the hood's drawstring in the same color as the base [illegible]

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested





AU$14.67

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Ceramic Mug 11oz

tmnotthefunkiest

Returns & exchanges accepted

Quantity

1

Add to basket

Highlights

Handmade

Description

Warm up with a nice cuppa out of this customized ceramic coffee mug. It's BPA and Lead free, microwave & dishwasher-safe, and made of white, durable ceramic in 11 ounce size. Thanks to the advanced printing tech, your designs come to life with incredibly vivid colors - the perfect gift for coffee, tea, and chocolate lovers

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$38.07

* Seller VAT included (where applicable). Additional VAT may be applied by Etsy at checkout

Team Giggle Pet Bandana Collar

iamnotthefunkind

✓ Returns & exchanges accepted

Add to basket

Highlights

Handmade

Description

The pet bandana collar puts a fun spin on standard anime accessories. It is made of polyester duck fabric and is sublimation printable on one side. The bandana collar is available in three sizes to fit any pet. The construction and printing is durable enough for machine washing. The color-fastening helps to keep the

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Learn more about this item

Delivery and return policies













Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

In 20+ baskets

AU$29.37+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Unisex Heavy Cotton Tee

kenotthefunkind

✓ Returns & exchanges accepted

Size *

Select an option

Quantity

1

Add to basket

Highlights

Handmade

Description

The unisex heavy cotton tee is the basic staple of any wardrobe. It is the foundation upon which casual fashion grows. All it needs is a personalized design to elevate things to profitability. The specially spun fibers provide a smooth surface for premium printing vividly

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage



AU$26.70

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Toddler's Fine Jersey Tee

imeatthefunkind

✓ Returns & exchanges accepted

Sizes *

Select an option

Quantity

1

Add to basket

Highlights

Handmade

Description

A tee with softness that is perfect for a toddler's sensitive skin. With a durable, high-quality print, it's a perfect fit for the first ventures.

- 100% combed, ring-spun cotton (fiber content may vary for different colors)

Reviews ☆☆☆☆☆ (0) Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$51.53

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Tote Bag

thenotherlunkbird

✓ Returns & exchanges accepted

4 interest-free payments of $12.88. Klarna. Learn more

Add to basket

Highlights

Handmade

Description

These long handle full-color tote bags are great for all your grab and go needs. They feature cross stitching on handles for more stability. They are made of 100% cotton fabric.

.: 100% Cotton
.: One size
.: Multiple color options
.: Cross stitching on handles

Delivery and return policies

Estimated arrival

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage





AU$37.30

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Scented Soy Candle, 9oz

Imnotthefunkind

✓ Returns & exchanges accepted

Scents *

Select an option

Add to basket

Highlights

Handmade

Description

Packed with immersive aromas, these scented candles come in 9oz glass jars and are one size (2.6" * 3.5") (7.1cm * 8.8cm). Made with 100% natural soy wax blend, each candle features a 100% cotton wick and a permanent adhesive label where your custom designs can come alive.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy

Search for anything

Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage





Reviews (0)

Sort by: Suggested

AU$12.10

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Team Giggle Can Cooler

Innotthefunkind

✓ Returns & exchanges accepted

Size *

Select an option

Quantity

1

Add to basket

Highlights

Handmade

Description

Made to keep your drinks crispy-fresh and cool-looking, these can insulators are the best companion for nature trips and parties. They're super lightweight and will fit in any backpack.

- White polyester exterior and black soft foam liner inside

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage





AU$48.87+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Do You Even Plant Bro Unisex Tee

Imnotthefunkind

Returns & exchanges accepted

Sizes *

Select an option

Add to basket

Highlights

Handmade

Description

The unisex heavy cotton tee is the basic staple of any wardrobe. It is the foundation upon which casual fashion grows. All it needs is a personalized design to elevate things to profitability. The specially spun fibers provide a smooth surface for premium printing vividity and sharpness. No side seams make the jersey [illegible]

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage





AU$23.77

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

F*** Everything Bottle Opener

smoothelunkind

✓ Returns & exchanges accepted

Quantity

1

Add to basket

Highlights

Handmade

Description

Bottle openers are designed to make our lives easier, and that's just what this custom opener does - but with more style. Equipped with a handy magnetic back, a unique bottle cap shape, and two different mechanisms for opening bottles, this has it all.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything 123 Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage









AU$29.30

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Fresh out of f**** Stemless Wine Glass, 11.75oz

[illegible]

✓ Returns & exchanges accepted

Quantity

1

Add to basket

Highlights

Handmade

Description

Whether it's weddings, parties, or beautiful evenings with friends and family, this personalized stemless glass wine fits right in. With its sleek, stemless design, each glass holds 11.75oz of your favorite wine. Add your art and create a kitchen classic.

Material: 100% glass

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage



AU$45.87+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Unisex Fresh Out of F**** Crewneck Sweatshirt

Imnotthefunkind

Returns & exchanges accepted

Size *

Select an option

Add to basket

Highlights

Handmade

Description

Ideal for any situation, a unisex heavy blend crewneck sweatshirt is pure comfort. These garments are made from polyester and cotton. This combination helps designs come out looking fresh and beautiful. The collar is ribbed knit, so it retains its shape even after washing

Reviews (0)

Sort by: Suggested

Learn more about this item

125





AU$34.83

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Harden up Sunshine Tough Phone Cases

Returns & exchanges accepted

Add to basket

Highlights

Handmade

Description

Protect your phone in custom style with this tough phone case. This lightweight phone case is impact resistant and comes with the perfect surface to print all your ideas in vivid detail as well as crisp color.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Learn more about this item

Delivery and return policies

274

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$33.43+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Women's Harden Up Sunshine Cotton Tee

Imnotthefunkind

✓ Returns & exchanges accepted

Colors *

Select an option

Sizes *

Select an option

Add to basket

Highlights

Handmade

Description

What's better than a soft, light cotton, quality t-shirt in your wardrobe? This comfy, contoured 100% cotton tee offers a semi-fitted silhouette and is pre-shrunk to ensure it stays a staple for longer. It features cap sleeves and a taped neck and shoulders.

100% cotton (fiber content may vary for different

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage



AU$23.77

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Bottle Opener

tmnotthehankind

✓ Returns & exchanges accepted

Quantity

1

Add to basket

Highlights

Handmade

Description

Bottle openers are designed to make our lives easier, and that's just what this custom opener does - but with more style. Equipped with a handy magnetic back, a unique bottle cap shape, and two different mechanisms for opening bottles, this has it all.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Learn more about this item

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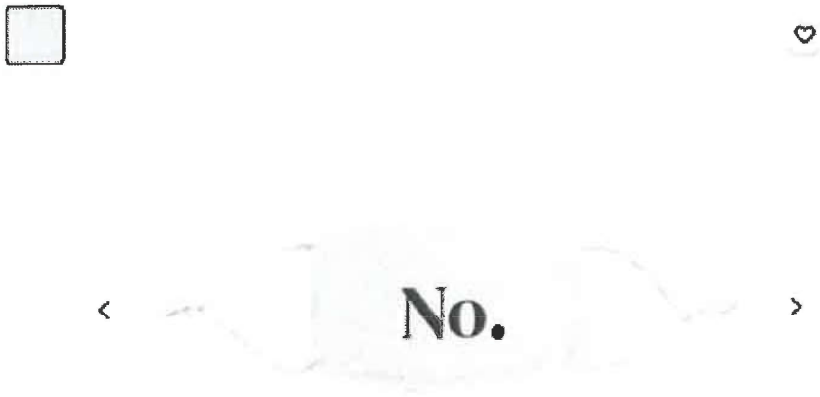
Items sold by Etsy sellers, such as masks, aren't medical-grade. Etsy sellers can't make medical or health claims. When selecting a mask, consult official guidance to make the right choice for you. More info



AU$16.37

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Fabric Face Mask

Imnotthatunkind

Returns & exchanges accepted

Quantity

1

Add to basket

Highlights

Handmade

Description

Add an extra layer of protection with a personalized touch. These reusable cloth face masks made of 100% polyester provide a physical barrier around the face. They, however, are not medical-grade, thus, not meant for medical use. Great for everyday use for overall

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage



AU$68.67+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout.

Unisex No Cat Hooded Sweatshirt

Immotilelunkind

✓ Returns & exchanges accepted

Size *

Select an option

4 interest free payments of $17.16 Klarna. Learn more

Add to basket

Highlights

Handmade

Description

This unisex heavy blend hooded sweatshirt is relaxation itself. Made with a thick blend of cotton and polyester, it feels plush, soft and warm, a perfect choice for any cold day. In the front, the spacious kangaroo pocket adds daily practicality, while the hoods drawstring is the

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$81.53+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout.

Unisex Fighting Women Hooded Sweatshirt

Immotheruinblind

✓ Returns & exchanges accepted

Sizes *

Select an option

4 interest-free payments of $20.38. Klarna. Learn more

Add to basket

Highlights

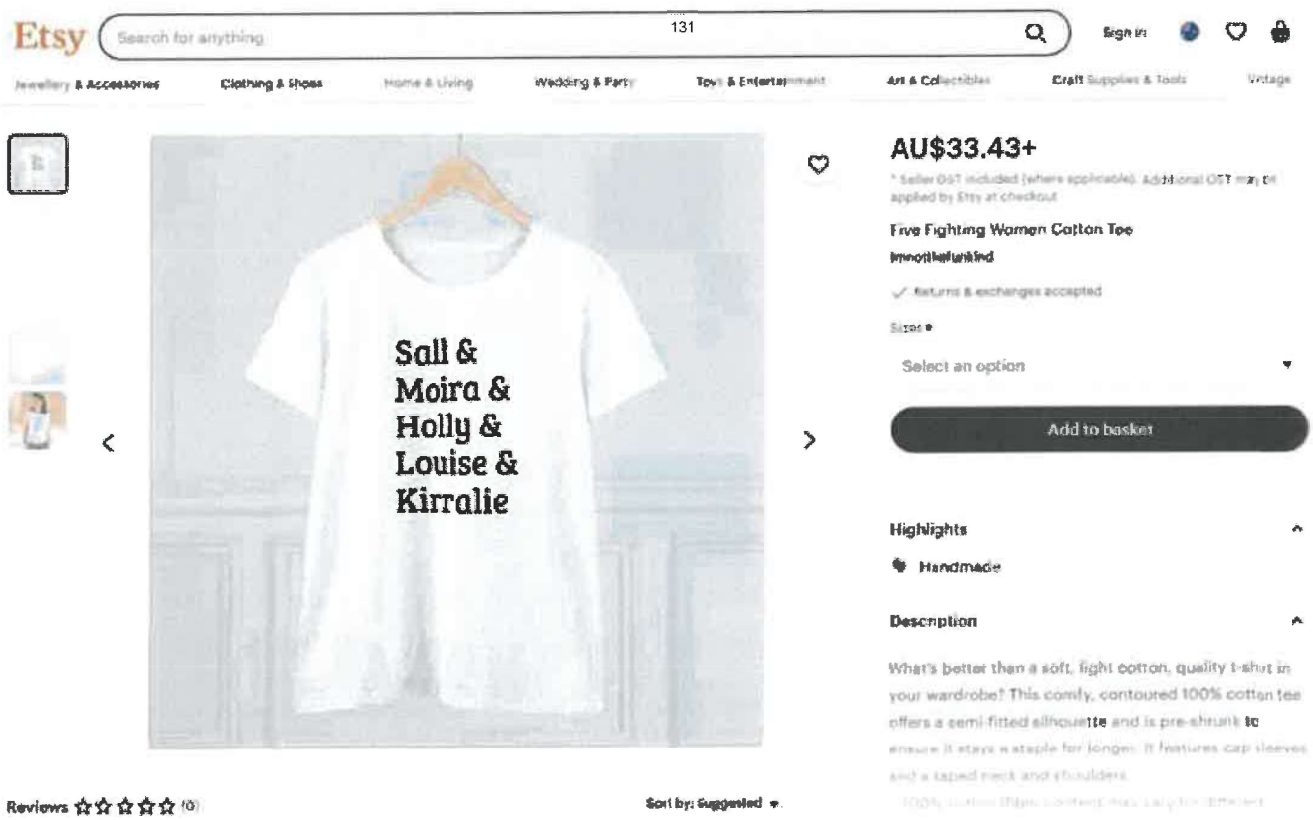
Handmade

Description

This unisex heavy blend hooded sweatshirt is relaxation itself. Made with a thick blend of cotton and polyester, it feels plush, soft and warm, a perfect choice for any cold day. In the front, the spacious kangaroo pocket adds daily practicality, while the hood's drawstring is the

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested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Clothing & Shoes
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Wedding & Party
Toys & Entertainment
Art & Collectibles
Craft Supplies & Tools
Vintage
Sall & Moira & Holly & Louise & Kirralie
AU$33.43+
Five Fighting Women Cotton Tee
Returns & exchanges accepted
Select an option
Add to basket
Highlights
Handmade
Description
What's better than a soft, light cotton, quality t-shirt in your wardrobe? This comfy, contoured 100% cotton tee offers a semi-fitted silhouette and is pre-shrunk to ensure it stays a staple for longer. It features cap sleeves and a taped neck and shoulders.
Reviews
Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage





AU$49.07+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Women Fighting Black Cotton Tee

Innerthefunkind

✓ Returns & exchanges accepted

Size *

Select an option

Add to basket

Highlights

Handmade

Description

What's better than a soft, light cotton, quality t-shirt in your wardrobe? This comfy, contoured 100% cotton tee offers a semi fitted silhouette and is pre-shrunk to ensure it stays a staple for longer. It features cap sleeves and a taped neck and shoulders.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$33.43+

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Fighting Women Cotton Tee

Imnotthefunkind

Returns & exchanges accepted

Select an option

Add to basket

Highlights

Handmade

Description

What's better than a soft, light cotton, quality t-shirt in your wardrobe? This comfy, contoured 100% cotton tee offers a semi fitted silhouette and is pre-shrunk to ensure it stays a staple for longer. It features cap sleeves and a taped neck and shoulders.

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage



AU$23.83

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Fighting Women Natural Tote Bag

Innolthehunkind

✓ Returns & exchanges accepted

Quantity

1

Add to basket

Highlights

Handmade

Description

A 100% cotton tote bag is the champion of durability, sustainability, and style. You can print your stunning designs on both sides of this bag in beautiful quality that'll last for years to come.

.: Material: 6 oz./yd², 100% natural cotton canvas fabric
.: One size: 15" x 16" (38.1cm x 40.6cm)
.: Convenient self-fabric handles
.: Double sided print

Reviews ☆☆☆☆☆ (0)

Sort by: Suggested

Etsy Search for anything Sign in

Jewellery & Accessories | Clothing & Shoes | Home & Living | Wedding & Party | Toys & Entertainment | Art & Collectibles | Craft Supplies & Tools | Vintage



AU$48.47

* Seller VAT included (where applicable). Additional GST may be applied by Etsy at checkout

Fighting Women Tote Bag (AOP)

smoothshunkind

✓ Returns & exchanges accepted

Add to basket

Highlights

Handmade

Description

This practical, high-quality Tote Bag is available in three sizes. All over print provides comfort with style at the beach or out in town. Made from reliable materials, lasting for seasons

- 100% Polyester

Reviewers ☆☆☆☆☆ (0)

Sort by: Suggested

Learn more about this item

Delivery and return policies

Etsy Search for anything Sign in

All categories > Home & Living > Home Decor > Candles & Holders > Candles > Pillar Candles













AU$37.30

* Seller GST included (where applicable). Additional GST may be applied by Etsy at checkout

Sweaty Balls Team Giggle Scented Soy Candle, 9oz

Imnottheluckiest ★★★★★

✓ Returns & exchanges accepted

Scents *

Select an option

Add to basket

Star Seller. This seller consistently earned 5-star reviews, dispatched on time, and replied quickly to any messages they received.

Highlights

Handmade

Description

Packed with immersive aromas, these scented candles come in 9oz glass jars and are one size (2.8" x 3.5") (7.1cm x 8.8cm). Made with 100% natural soy wax blend, each candle features a 100% cotton wick and a permanent adhesive label.

Materials: 100% natural soy wax blend, 100% cotton

8 shop reviews ★★★★★

Sort by: Suggested

285

★★★★★

Great T-shirt for a great cause!

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	24/10/2023 6:37:39 PM AEDT
Date Accepted for Filing:	24/10/2023 6:37:45 PM AEDT
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD CAN 632 152 017 and another

Respondent

Affidavit of: **SALL GROVER**

Address: [redacted]

Occupation: Chief Executive Officer

Date: 23 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Sall Grover in support of Respondents' defence proceedings affirmed on 23 October 2023.	1	2
2	Annexure "**Giggle-1**", being copy of the First Respondent's Constitution.	2	5
3	Annexure "**Giggle-2**", being copy of the Annual Report for the First Respondent for the financial year ending 2020.	3	44
4	Annexure "**Giggle-3**" being copy of the Company Return for the First Respondent for the financial year ending 2021.	4	65
5	Annexure "**Giggle-4**" being copy of the Company Return for the First Respondent for the financial year ending 2022.	5	86
6	Annexure "**Giggle-5**" being copy of the Company Return for the First Respondent for the financial year ending 2023.	6	107

DocuSigned by:
[redacted]
Deponent

K Dewes
Witness

Document number	Details	Paragraph	Page
7	Annexure "**Giggle-6**" being copy of the ASIC Current and Historical Search for WADD Holdings Pty Ltd ACN 66 632 151 154	7	131
8	Annexure "**Giggle-7**" being copy of women's reviews of App	21	137

I, Sall Grover, affirm:

1. I am the Chief Executive Officer of the First Respondent. I am authorised to make this affidavit on its behalf. In doing so I have had regards to the financial records maintained by the First Respondent.

2. I refer to my affidavit affirmed 23 October 2023 (**my first affidavit**).

3. Annexed and marked **"GIGGLE-1"** is a copy of the First Respondent's Constitution.

4. Annexed and marked **"GIGGLE-2"** is a copy of the Annual Report for the First Respondent for the financial year ending 2020.

5. Annexed and marked **"GIGGLE-3"** is a copy of the Company Return for the First Respondent for the financial year ending 2021.

6. Annexed and marked **"GIGGLE-4"** is a copy of the Company Return for the First Respondent for the financial year ending 2022.

7. Annexed and marked **"GIGGLE-5"** is a copy of the Company Return for the First Respondent for the financial year ending 2023.

8. Annexed and marked **"GIGGLE-6"** is a copy of the ASIC Current and Historical Search for WADD Holdings Pty Ltd ACN 66 632 151 154.

9. The App was free to use by its subscribers. It had premium upgrades within the App for purchase, which allowed users greater control over their experience on the App. This included features such as Giggle Slide, which allowed users to message one another without matching, or Giggle Invisible, which permitted users anonymity and privacy on the App as they required it. The fee charged for this was modest ($2 - 3 a month) and covered the cost of the provision of the services by reason of the software upgrades that were required to produce them. In any event, we turned off payments these features from 2020 onwards because the objective of the App was to allow users to use them.

10. As I have set out in my first affidavit, the App grew from an experience in my life which saw me disadvantaged by reason of my female sex, that is, sexual abuse. The purpose of the App was to provide a platform for females all around the world to connect in a female only environment, knowing and confident that it was a female only environment.

DocuSigned by:
4C63068C2F8848E
Deponent

K Deves
Witness

The purpose of the App was to allow females of all persuasions to connect and support each other in all aspects of their lives in the dignity, safety and security of a female only digital space.

11. When you build an App there is a generic placeholder for advertising included in the software design. One could not include this aspect of the design if one chose, but it is such a regular and standard feature of generic App design software that it is easier to include to leave out.

12. This placeholding provides the option to the App owner to include advertising. We chose to include it in the Giggle App because it would allow us to advertise features of the Giggle App to the Giggle users.

13. In its infancy, that is, the beta phase of the Giggle App, this placeholding was occupied by Google Admob. This is because we had not yet developed the software capability to run our own design of advertainments for the Giggle App's placeholdings. We included Google Admob at this beta stage, so that this placeholding space was not left blank, otherwise the vacancy in the App's design would distort the aesthetic of the App.

14. Theoretically, while Google Admob's occupation of this placement could work to monetise its advertising content, this was never realised by the Giggle App in any substantive way by reason of the fact that the App never achieved the Google and App Store ranking necessary for monetisation of these advertisements' placement.

15. In my first affidavit, I described the way in which the App was regularly inundated with one-star ratings and therefore received a very low Google and App store ranking. By reason of this ranking, the ads run by Google Admob produced little to no income.

16. These poor rankings did not deter the First Respondent, however, from continuing to provide the service of hosting the App for its female users; because it considered that it was through these experiences that the need for a female only digital space was proved and justified, beyond what we had anticipated at the time of conceiving the App.

17. Personally, I was motivated to continue to provide this female only digital space despite the cost to myself personally because I was determined not to allow men to destroy my next career endeavour in the same way they had destroyed my screenwriting career. The constant attacks by men on the Giggle App only served to strengthen my personal resolve to provide a female only digital space.

18. But more importantly, as a victim of sexual abuse, I know well what I realise now through having undergone therapy for this abuse, is the intrinsic feeling experienced by victims of sexual abuse, which was a feeling at one time intrinsic to me. This feeling is that that as the subject of abuse you are not worthy, because how else could this abuse happen to

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Deponent

K Deves
.....
Witness

you. As a victim of sexual abuse, I felt left a strong sense of abandonement by society and those charged with the task of protecting me. As I discuss in my first affidavit, undergoing therapy helped me realise that I was not alone. From this experience, I developed the determination to stand up for my rights and the rights of all females and to provide this safe and dignified digital space for females.

19. It was not until the receipt of the Applicant's Australian Human Rights Commission Complaint in December 2021 that we considered at all that the App may need to be shut down.

20. Until the First Respondent can be certain it is legal in Australia for females to commune online in female only spaces to the exclusion of all males, the App will not be reopened.

Addendum to First Affidavit

21. I refer to my first Affidavit at paragraph 62 and Annexure "SG-5". In collating my first Affidavit, my legal representative omitted by accident several reviews of the Giggle App. Annexed to this my Affidavit and marked **"GIGGLE-7"** are the women's reviews of the App to which I refer.

Affirmed by the deponent)
[redacted])
on 23 October 2023)
Before me:)

DocuSigned by:
[signature]
4C83088C9F8646E...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed and affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-1"

This is the Annexure marked "**GIGGLE-1**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

Constitution of Giggle for Girls Pty Ltd ACN 632 152 017

Adopted on: 8 March 2019

Amended:



TALBOTSAYER

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TALBOTSAYER

Constitution of Giggle for Girls Pty Ltd ACN 632 152 017

Agreed terms 6

1. Preliminary 6
   - 1.1 General 6
2. Defined terms and interpretation 6
   - 2.1 Defined terms 6
   - 2.2 Interpretation 7
3. Share capital and variation of rights 8
   - 3.1 Directors power to issue shares 8
   - 3.2 Holders of ordinary shares 8
   - 3.3 Holders of A class shares 8
   - 3.4 Holders of B class shares 9
   - 3.5 Holders of C class shares 9
   - 3.6 Variation of rights 9
   - 3.7 Alteration of share capital 10
   - 3.8 Commission and brokerage 10
   - 3.9 Recognition and disclosure of interests 10
   - 3.10 Joint holders of shares 10
4. Right to share certificate 10
   - 4.1 Availability of certificates 10
   - 4.2 Delivery of certificates 11
5. Lien 11
   - 5.1 Lien on a share 11
   - 5.2 Sale under lien 11
   - 5.3 Transfer on sale under lien 11
   - 5.4 Proceeds of sale 12
6. Calls on shares 12
   - 6.1 Directors to make calls 12
   - 6.2 Time of call 12
   - 6.3 Shareholders liability 12
   - 6.4 Interest upon default 12
   - 6.5 Fixed instalments deemed calls 12
   - 6.6 Differentiation between shareholders as to calls 12
   - 6.7 Prepayment of calls 13
7. Forfeiture of shares 13
   - 7.1 Notice requiring payment of call 13
   - 7.2 Forfeiture for failure to comply with notice 13
   - 7.3 Effect of forfeiture on former holder's liability 13



TALBOTSAYER

	7.4	Evidence of forfeiture	14
	7.5	Transfer of forfeited share	14
	7.6	Forfeiture applies to non-payment of instalments	14
8.	Transfer of shares		14
	8.1	Forms of instrument of transfer	14
	8.2	Registration procedure	14
	8.3	Directors may decline to register or suspend	14
	8.4	Company to retain instrument of transfer	15
9.	Transmission of shares		15
	9.1	Transmission of shares on death of holder	15
	9.2	Right to registration on death, mental incapacity or bankruptcy	15
	9.3	Effect of transmission	16
10.	General meetings		16
	10.1	General meeting	16
	10.2	Notice of general meeting	16
11.	Proceedings at general meetings		16
	11.1	Quorum	16
	11.2	Failure to achieve quorum	17
	11.3	Appointment and powers of chairman of general meeting	17
	11.4	Adjournment of general meeting	17
	11.5	Voting at general meeting	18
	11.6	Poll	18
	11.7	Equality of votes	18
	11.8	Entitlement to vote	18
	11.9	Joint shareholder's vote	19
	11.10	Vote of shareholder of unsound mind	19
	11.11	Effect of unpaid call	19
	11.12	Objection to voting qualification	19
	11.13	Appointment of proxy	19
	11.14	Deposit of proxy and other instruments	19
	11.15	Validity of vote in certain circumstances	20
	11.16	Special meetings	20
	11.17	Resolutions passed with meetings	20
12.	Appointment, removal and remuneration of Directors		20
	12.1	Number and appointment of Directors	20
	12.2	Period of office	20
	12.3	Casual vacancy	**Error! Bookmark not defined.**
	12.4	Appointment and removal of Directors	21
	12.5	Remuneration of Directors	21
	12.6	Share qualification of Directors	21
	12.7	Vacation of office of Director	21
13.	Powers and duties of Directors		21
	13.1	Directors to manage Company	21



TALBOTSAYER

	13.2	Appointment of attorney	22
	13.3	Execution of Company cheques, etc.	22
14.	Proceedings of Directors' Meetings		22
	14.1	Directors' meetings	22
	14.2	Questions decided by majority	22
	14.3	Directors' interests	23
	14.4	Alternate Directors	23
	14.5	Quorum for Directors meetings	24
	14.6	Remaining Directors may act	24
	14.7	Director attending and voting by proxy	24
	14.8	Chairman of Directors	24
	14.9	Directors' committees	25
	14.10	Resolution in writing	25
	14.11	Validity of acts of Directors	25
	14.12	Appointment of managing Director	26
	14.13	Remuneration of managing Director	26
	14.14	Powers of managing Director	26
	14.15	Wholly-owned subsidiary	26
15.	Secretary		26
16.	Execution of documents		26
	16.1	Company Seal is optional	26
	16.2	If the Company has a Seal	26
	16.3	Execution of documents without a Seal	27
	16.4	Other ways of executing documents	27
17.	Inspection of records		27
18.	Dividends and reserves		27
	18.1	Payment of dividends	27
	18.2	Conditions	27
	18.3	Reserves and profits carried forward	27
	18.4	Calculation and apportionment of dividends	28
	18.5	Record date	28
	18.6	No interest	28
	18.7	Method of payment	28
	18.8	Deductions from dividends	29
	18.9	Retention of dividends	29
	18.10	Distribution of specific assets	29
	18.11	Source of dividends	30
	18.12	Reinvestment of dividends	30
	18.13	Unclaimed dividends	30
19.	Capitalisation of profits		30
	19.1	Power of Directors	30
	19.2	Further powers of Directors	31
20.	Notices		31

20.1 Service of notices 31
20.2 Persons entitled to notice of general meeting 32
20.3 Evidence of service 32

21. Winding up 32

21.1 Power of liquidator 32
21.2 Vesting of property 32
21.3 Shares issued on special terms 32

22. Indemnity and insurance 32

22.1 Indemnity 32
22.2 Proceedings 33
22.3 Insurance 33
22.4 Contract 33

23. Loans to Members 33

Schedule Division 7A facility agreement (rule 23) 34



Agreed terms

1. Preliminary

1.1 General

(a) Name of company

The name of the Company is Giggle for Girls Pty Ltd ACN 632 152 017 (**Company**).

(b) Proprietary company

The Company is a proprietary limited company.

(c) Liability of Members

The liability of Members is limited.

(d) Replaceable Rules not to apply

The Replaceable Rules do not apply to the Company but instead the rules contained in this Constitution apply to the Company.

1.2 Inconsistency with Shareholders' Agreement

If there is any inconsistency between this Constitution and the Shareholders' Agreement, the Shareholders' Agreement prevails as between the parties to the Shareholders' Agreement to the extent of any inconsistency and the Members agree to exercise their rights as holders of Shares and take any steps which are necessary to ensure that this Constitution is amended to be consistent with the Shareholders' Agreement.

2. Defined terms and interpretation

2.1 Defined terms

In this document:

Term	Definition
ASIC	means the Australian Securities and Investments Commission.
Business Day	means a day that is not a Saturday, Sunday or public holiday in the place where the contract or act is being performed.
Corporations Act	means *Corporations Act 2001* (Cth).
Directors	means the directors of the Company.



Term	Definition
Liability	includes any claim, action, suit, proceeding, investigation, inquiry, damage, loss, cost or expense.
Member	means a shareholder of the Company in accordance with the Corporations Act.
Officer	has the meaning given to that term in section 9 of the Corporations Act.
Prescribed Rate	means (a) if the Company has, by resolution, fixed a rate – the rate so fixed; and (b) in any other case – 8% per annum.
Relevant Corporation	has the meaning set out in rule 14.3(e).
Replaceable Rules	means all or any of the replaceable rules contained in the Corporations Act from time to time and includes any replaceable rule that was or may become, a provision of the Corporations Act.
Seal	means the common seal of the Company, if any, and includes any certificate seal of the Company.
Secretary	means any person appointed to perform the duties of a Secretary of the Company.
Shareholders' Agreement	means the shareholders' agreement between the Company, the company's shareholders and any other parties who accede to the shareholders' deed from time to time dated on or around the date of this document.

2.2 Interpretation

In this document:

(a) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;

(b) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;

(c) words in the singular include the plural and vice versa;

(d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(e) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;

(f) a reference to this document includes the agreement recorded by this document;

(g) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;



(h) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;

(i) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and

(j) a reference to 'month' means calendar month.

3. Share capital and variation of rights

3.1 Directors power to issue shares

(a) The issue of shares in the Company is under the control of the Directors who may, subject to the Corporations Act and any special rights conferred on the holders of any shares or class or shares:

(i) issue and cancel shares in the Company;

(ii) grant options over unissued shares in the Company; and

(iii) settle the manner in which fractions of a share, however arising, are to be dealt with.

(b) Without prejudice to any special rights previously conferred on the holders of any existing share or class of shares but subject to the Corporations Act, shares in the Company may be issued by the Directors with such preferred, deferred or other special rights or such restrictions, whether with regard to dividend, voting, return of capital or otherwise, as the Directors determine.

(c) Subject to the Corporations Act, any preference shares may be issued on the terms that they are, or at the option of the Company are, liable to be redeemed or to be converted into other shares on such conditions and in such a manner as the directors decide under the terms of issue of the preference shares.

3.2 Holders of ordinary shares

The holder of an ordinary share has the right:

(a) to receive notice of and to attend general meetings of the Company;

(b) to vote at a general meeting of the Company, on the basis of one vote for each ordinary share held;

(c) in a winding up or reduction of capital of the Company to repayment of the capital paid up on that share and to participate in the distribution of the surplus assets of the Company; and

(d) to receive dividends as determined from time to time by the Directors to be payable to the holders of ordinary shares.

3.3 Holders of A class shares

The holder of an A class share has the right:

(a) to receive notice of and to attend general meetings of the Company;

(b) to vote at a general meeting of the Company, on the basis of one vote for each A class share held;

(c) in a winding up or reduction of capital of the Company to repayment of the capital paid up on that share; and

(d) to receive dividends as determined from time to time by the Directors to be payable to the holders of A class shares,

but does not have the right:

(e) in a winding up or reduction of capital of the Company to participate in the distribution of the surplus assets of the Company.

3.4 Holders of B class shares

The holder of a B class share has the right:

(a) to receive notice of and to attend general meetings of the Company;

(b) in a winding up or reduction of capital of the Company to repayment of the capital paid up on that share and to participate in the distribution of the surplus assets of the Company; and

(c) to receive dividends as determined from time to time by the Directors to be payable to the holders of B class shares,

but does not have the right:

(d) to vote at a general meeting of the Company.

3.5 Holders of C class shares

The holder of a C class share has the right:

(a) to receive notice of and to attend general meetings of the Company;

(b) to vote at a general meeting of the Company, on the basis of one vote for each C class share held; and

(c) in a winding up or reduction of capital of the Company to repayment of the capital paid up on that share and to participate in the distribution of the surplus assets of the Company,

but does not have the right:

(d) to receive dividends.

3.6 Variation of rights

(a) The rights attached to any class of shares (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up be varied with the consent in writing of Members with at least 75% of the votes in the class, or with the sanction of a special resolution passed at a separate meeting of the holders of the shares of that class.



(b) The rights conferred upon the holders of the shares of any class issued with preferred or other rights are, unless otherwise expressly provided by the terms of issue of the shares of that class, deemed not to be varied by the creation or issue of further shares ranking equally with the first mentioned shares.

3.7 Alteration of share capital

Subject to the Corporations Act, the Company may resolve to covert or reclassify shares from one class to another and the Directors may do anything required to give effect to that resolution.

3.8 Commission and brokerage

(a) The Company may exercise the power to make payments by way of brokerage or commission conferred by the Corporations Act in the manner provided by the Corporations Act.

(b) Payments by way of brokerage or commission may be satisfied by the payment of cash, by the allotment of fully or partly paid shares or partly by the payment of cash and partly by the allotment of fully or partly paid shares.

3.9 Recognition and disclosure of interests

(a) Except as required by law, the Company does not recognise a person as holding a share upon any trust.

(b) The Company is not bound by or compelled in any way to recognise (whether or not it has notice of the interest or right concerned) any equitable, contingent, future or partial interest in any share or unit of a share or (except as otherwise provided by these rules or by law) any other right in respect of a share except an absolute right of ownership in the registered holder.

3.10 Joint holders of shares

Where two or more persons are registered as the joint holders of shares then they are taken to hold the shares as joint tenants with rights of survivorship, but the Company is not bound:

(a) to register more than three persons as joint holders of a share; or

(b) to issue more than one certificate for shares jointly held.

4. Right to share certificate

4.1 Availability of certificates

It is a condition of issue of any shares that the Company need not have ready for delivery any certificate relating to those shares unless the person who is registered as the current holder of the shares makes a request in writing for the Company to complete and deliver the share certificates in which case the Company must do so within one calendar month of receipt by the Company of such a request. Where the Company is required to issue certificates for shares, every shareholder is entitled, without payment, to one certificate for the shares registered in that shareholder's name or to several certificates in reasonable denominations, each for a part of the shares.



4.2 Delivery of certificates

Delivery of a certificate for a share to one of several joint holders is sufficient delivery to all such holders.

5. Lien

5.1 Lien on a share

(a) To the extent permitted by law:

(i) the Company has a first and paramount lien on every share (not being a fully paid share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that share; and

(ii) the Company also has a first and paramount lien on all shares (other than fully paid shares) registered in the name of a sole holder for all money presently payable by the holder or their estate to the Company.

(b) The Directors may at any time exempt a share wholly or in part from the provisions of this rule.

(c) The Company's lien (if any) on a share extends to all dividends payable in respect of the share.

5.2 Sale under lien

(a) Subject to rule 5.2(b), the Company may sell, in such manner as the Directors think fit, any shares over which the Company has a lien.

(b) A share on which the Company has a lien may not be sold unless:

(i) a sum in respect of which the lien exists is presently payable; and

(ii) not less than 14 days before the date of the sale, the Company has given to the registered holder for the time being of the share or the person entitled to the share by reason of the death or bankruptcy of the registered holder, a notice in writing setting out and demanding payment of such part of the amount in respect of which the lien exists as is presently payable.

5.3 Transfer on sale under lien

(a) For the purpose of giving effect to a sale mentioned in rule 5.2, the Directors may authorise a person to transfer the shares sold to the purchaser of the shares.

(b) The Company must register the purchaser as the holder of the shares comprised in any such transfer and the purchaser is not bound to see to the application of the purchase money.

(c) The title of the purchaser to the shares is not affected by any irregularity or invalidity in connection with the sale.

5.4 Proceeds of sale

The proceeds of a sale mentioned in rule 5.2 are to be applied by the Company in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue (if any) is (subject to any like lien for sums not presently payable that existed upon the shares before the sale) to be paid to the person entitled to the share at the date of the sale.

6. Calls on shares

6.1 Directors to make calls

(a) The Directors may make calls upon the Members in respect of any money unpaid on the shares of the Members and not by the terms of issue of those shares made payable at fixed times.

(b) Each Member must, upon receiving at least 14 Business Days notice specifying the time and place of payment, pay to the Company at the time and place so specified the amount called on their shares.

(c) The Directors may revoke or postpone a call.

6.2 Time of call

A call is deemed to have been made at the time when the resolution of the Directors authorising the call is passed and may be required to be paid by instalments.

6.3 Shareholders liability

The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.

6.4 Interest upon default

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay interest on the sum from the day appointed for payment of the sum to the time of actual payment at such rate not exceeding the Prescribed Rate as the Directors determine, but the Directors may waive payment of that interest wholly or in part.

6.5 Fixed instalments deemed calls

Any sum that, by the terms of issue of a share, becomes payable on allotment or at a fixed date is for the purposes of these rules deemed to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and, in case of non-payment, all the relevant provisions of these rules as to the payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

6.6 Differentiation between shareholders as to calls

The Directors may, on the issue of shares, differentiate between holders as to the amount of calls to be paid and the times of payment.



6.7 Prepayment of calls

(a) The Directors may accept from a Member the whole or a part of the amount unpaid on a share although no part of that amount has been called up.

(b) The Directors may authorise payment by the Company of interest upon the whole or part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the Prescribed Rate, as is agreed upon between the Directors and the Member paying for the sum.

7. Forfeiture of shares

7.1 Notice requiring payment of call

(a) If a Member fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment, the Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on the Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that may have been incurred by the Company by reason of that non-payment. .

(b) The notice is to name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made and state that, in the event of non-payment on or before the time appointed, the shares in respect of which the call was made are liable to be forfeited.

7.2 Forfeiture for failure to comply with notice

(a) If the requirements of a notice served under rule 7.1 are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.

(b) Such a forfeiture includes all dividends and other distributions to be made in respect of the forfeited shares and which have not actually been paid or distributed before the forfeiture.

(c) Subject to the Corporations Act, a forfeited share may be sold, re-issued or otherwise disposed of to such person, on such terms and in such manner as the Directors think fit and, at any time before a sale, re-issue or disposition, the forfeiture may be cancelled on such terms as the Directors think fit.

7.3 Effect of forfeiture on former holder's liability

A person whose shares have been forfeited:

(a) ceases to be a Member in respect of the forfeited shares; and

(b) remains liable to pay to the Company all money that, at the date of forfeiture, was payable by them to the Company in respect of the shares (plus interest at the Prescribed Rate) from the date of forfeiture on the money for the time being unpaid and the reasonable expenses of the sale of the shares, if the Directors think fit to enforce payment of such interest and expenses), but the Member's liability ceases if and when the Company receives payment in full of all moneys (including interest and expenses, if any) payable in respect of the shares.



7.4 Evidence of forfeiture

A statement in writing declaring that the person making the statement is a Director or a Secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the statement, is prima facie evidence of the facts stated in the statement as against all persons claiming to be entitled to the share.

7.5 Transfer of forfeited share

(a) The Company may receive the consideration (if any) given for a forfeited share on any sale, re-issue or disposition of the share and may execute a transfer of the share in favour of the person to whom the share is sold, re-issued or disposed of.

(b) Upon the execution of the transfer, the transferee will be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

(c) The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale, re-issue or disposal of the share.

7.6 Forfeiture applies to non-payment of instalments

The provisions of these rules as to forfeiture apply in the case of non-payment of any sum that, by the terms of issue of a share, becomes payable at a fixed time as if that sum had been payable by virtue of a call duly made and notified.

8. Transfer of shares

8.1 Forms of instrument of transfer

(a) Subject to these rules, and in particular rule 8.2, a Member may transfer all or any of their shares by instrument in writing in any usual or common form or in any other form that the Directors approve.

(b) An instrument of transfer referred to in rule 8.2(b) is to be executed by or on behalf of both the transferor and the transferee.

8.2 Registration procedure

(a) A transferor of shares remains the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of Members in respect of the shares.

(b) The instrument of transfer must be left for registration at the registered office of the Company or such other place nominated by the Directors, together with such fee (if any) not exceeding $10 as the Directors require, accompanied by the certificate of the shares to which it relates and such other information as the Directors properly require to show the right of the transferor to make the transfer, and thereupon the Company must, subject to the powers vested in the Directors by these rules, register the transferee as a shareholder.

8.3 Directors may decline to register or suspend

(a) The Directors may in their absolute discretion and without assigning any reason therefore decline to register any transfer of shares.

(b) The registration of transfers may be suspended at such times and for such periods as the Directors from time to time determine not exceeding in the whole 30 days in any year.

(c) Subject to any contrary time stated in the Corporations Act, if the Directors refuse to register a transfer of shares, they must give written notice of the refusal to the holder of the shares and the transferee within two months after the date on which the transfer was lodged with the Company. Failure to give notice does not invalidate the decision of the Directors.

8.4 Company to retain instrument of transfer

The Company must retain every instrument of transfer which is registered for the period required by any applicable law.

9. Transmission of shares

9.1 Transmission of shares on death of holder

(a) In the case of the death of a Member, the Company will recognise the following persons as having title to the deceased's interest in the shares:

(i) subject to rule 9.1(b), where the deceased was a joint holder (unless the shares are held as tenants in common), the survivor or survivors; and

(ii) where the deceased was a sole holder or the shares are held as tenants in common, the legal personal representatives of the deceased.

(b) Rule 9.1(a) does not release the estate of a deceased joint holder from any liability in respect of a share that had been jointly held by the deceased with other persons.

(c) The Directors may register or give effect to a transfer to a transferee who dies before the transfer is registered.

9.2 Right to registration on death, mental incapacity or bankruptcy

(a) Subject to the *Bankruptcy Act 1966* (Cth), a person becoming entitled to a share in consequence of the death, mental incapacity or bankruptcy of a Member may, upon such information being produced as is properly required by the Directors, elect either to be registered themselves as holder of the share or to have some other person nominated by them registered as the transferee of the share.

(b) If the person becoming entitled elects to be registered themselves, they must deliver or send to the Company a notice in writing signed by them stating that they so elect.

(c) If they elect to have another person registered, they must execute a transfer of the share to that other person.

(d) All the limitations, restrictions and provisions of these rules relating to the right to transfer, and the registration of a transfer, of shares are applicable to any such notice or transfer as if the death, mental incapacity or bankruptcy of the Member had not occurred and the notice or transfer were a transfer signed by that Member.



9.3 Effect of transmission

(a) Where the registered holder of a share dies, becomes mentally incapacitated or becomes bankrupt, their personal representative or the trustee of their estate, as the case may be, is, upon the production of such information as is properly required by the Directors, entitled to the same dividends and other advantages, and to the same rights (whether in relation to meetings of the Company or to voting or otherwise) as the registered holder would have been entitled to if the registered holder had not died, become incapacitated or become bankrupt.

(b) Where two or more persons are jointly entitled to any share in consequence of the death of the registered holder, they are, for the purpose of these rules, deemed to be joint holders of the share.

10. General meetings

10.1 General meeting

(a) A Director may whenever the Director thinks fit call a general meeting.

(b) Except as permitted by the Corporations Act, the shareholders may not call a general meeting of the Company.

(c) By resolution of the Directors, any general meeting (other than a general meeting which has been requisitioned or otherwise called by shareholders in accordance with the Corporations Act) may be cancelled or postponed prior to the date on which it is to be held.

10.2 Notice of general meeting

(a) A notice of a general meeting is to specify the place, the day and the hour of meeting and the general nature of the business to be transacted at the meeting as well as any other matters required to be specified by the Corporations Act.

(b) If the meeting is to be held at two or more places the notice is to set out details of the technology that will be used to facilitate such a meeting and any other matters required to be stated by the Corporations Act in relation to the use of such technology.

11. Proceedings at general meetings

11.1 Quorum

(a) No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.

(b) A quorum is two Members present. Where the Company has only one Member that Member shall constitute a valid quorum.

(c) For the purpose of determining whether a quorum is present, a person attending as a proxy, or an attorney or as a representative of a corporation that is a Member, is deemed to be a Member.



11.2 Failure to achieve quorum

If a quorum is not present within half an hour from the time appointed for the meeting:

(a) where the meeting was convened upon the requisition of Members or called by Members the meeting will be dissolved; or

(b) in any other case:

(i) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and

(ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting:

(A) two Members constitute a quorum; or

(B) where Members are not present as required by rule 11.2(b)(ii)(A) the meeting is to be dissolved.

11.3 Appointment and powers of chairman of general meeting

(a) The sole Director or, if the Directors have elected one of their number as chairman of their meetings, that Director, is to preside as chairman at every general meeting.

(b) Where a general meeting is held and:

(i) a chairman has not been elected as required by rule 11.3(a); or

(ii) the chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act,

the Directors present must elect one of their number to be chairman of the meeting.

(c) Where the Directors present fail to elect one of their number as chairman of the meeting as provided by rule 11.3(b) or such chairman is unwilling or unable to act then the Members present may elect one of their number to be chairman of the meeting.

11.4 Adjournment of general meeting

(a) The chairman may, with the consent of any meeting at which a quorum is present, and must, if so directed by the Members present who may cast a majority of votes able to be cast at the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(b) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

(c) Except as provided by rule 11.4(b), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

TALBOTSAYER

11.5 Voting at general meeting

(a) At any general meeting a resolution put to the vote of the meeting is decided on a show of hands unless, before a vote on a show of hands is taken, before the voting results on a show of hands are declared or immediately after the voting results on a show of hands are declared, a poll is demanded by:

(i) the chairman;

(ii) at least five Members entitled to vote on the resolution; or

(iii) by a Member or Members with at least 5% of the votes that may be cast on the resolution on a poll.

(b) Unless a poll is so demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect has been made in the book containing the minutes of the proceeding of the Company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(c) The demand for a poll may be withdrawn.

11.6 Poll

(a) If a poll is duly demanded, it is to be taken in such manner and (subject to rule 11.6(b)) either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll is the resolution of the meeting at which the poll was demanded.

(b) A poll demanded on the election of a chairman or on a question of adjournment is to be taken immediately.

11.7 Equality of votes

In the case of equality of votes, the chairman of the meeting at which a show of hands takes place or at which a poll is demanded, has no casting vote in addition to the Chairman's deliberative vote (if any).

11.8 Entitlement to vote

Subject to any rights or restrictions for the time being attached to any class or classes of shares:

(a) at meetings of Members or classes of Members each Member entitled to vote may vote in person or by proxy or attorney;

(b) on a show of hands every person present who is a Member or a representative of a Member has one vote except where a proxy has two or more appointments that specify different ways to vote on a resolution, in which case the proxy cannot vote; and

(c) on a poll every person present in person or by proxy or attorney has one vote for each share they hold.

11.9 Joint shareholder's vote

In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy or by attorney, is to be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority is determined by the order in which the names stand in the register of Members.

11.10 Vote of shareholder *of unsound mind*

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, committee or trustee of the Member or such other person as properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

11.11 Effect of unpaid call

A Member is not entitled to vote at a general meeting unless all calls and other sums presently payable by them in respect of shares in the Company have been paid.

11.12 Objection to voting qualification

(a) An objection may be raised to the qualification of a vote only at the meeting or adjourned meeting at which the vote objected to is given or tendered.

(b) Any such objection is to be referred to the chairman of the meeting, whose decision is final.

(c) A vote not disallowed pursuant to such an objection is valid for all purposes.

11.13 Appointment of proxy

(a) An instrument appointing a proxy is to be signed by the appointor or their attorney duly authorised in writing or, if the appointor is a corporation, either under Seal or under the hand of an officer or attorney duly authorised.

(b) An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

(c) An instrument appointing a proxy is deemed to confer authority to speak on behalf of the appointor to the extent permitted by law and demand, or join in demanding, a poll.

(d) A Member who is entitled to cast two or more votes at the meeting may appoint two proxies. If the Member does so, and the appointment does not specify the proportion or number of the Member's votes each proxy may exercise, then each proxy may exercise half of the votes.

(e) The Directors may determine from time to time the form of an instrument appointing a proxy.

11.14 Deposit of proxy and other instruments

An instrument appointing a proxy is not effective unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, is or are deposited, at least 48 hours before the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less

than 24 hours before the time appointed for the taking of the poll, at the registered office of the Company or faxed to the registered office of the Company or at such other place within the State, fax number or electronic address as may be specified for that purpose in the notice calling the meeting.

11.15 Validity of vote in certain circumstances

A vote given in accordance with the terms of an instrument or proxy or a power of attorney is valid notwithstanding the previous death or unsoundness of mind of the principal, the revocation of the instrument (or of the authority under which the instrument was executed) or of the power, or the transfer of the share in respect of which the instrument or power is given, if no intimation in writing of the death, unsoundness of mind, revocation or transfer has been received by the Company at the registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

11.16 Special meetings

All the provisions of these rules as to general meetings apply to any special meeting of any class of shareholders which may be held pursuant to the operation of these rules or the Corporations Act.

11.17 Resolutions passed with meetings

(a) Where the Company has:

(i) one Member; or

(ii) a class of shares with only one holder of the shares in that class,

the Company may pass a resolution by written resolution without holding a general meeting as permitted by the Corporations Act.

(b) A circular resolution signed by all Members eligible to vote in respect of the subject matter of the resolution, may be used to pass a resolution of Members in lieu of holding a general meeting, as permitted by the Corporations Act.

12. Appointment, removal and remuneration of Directors

12.1 Number and appointment of Directors

(a) The names of the first Directors are those persons listed as consenting to act as Directors in the application for registration of the Company.

(b) The Company may have one or more Directors.

12.2 Period of office

A Director continues to hold office until the Director dies or until their office is vacated pursuant to rule 12.7.

12.3 Appointment of Directors by other Directors

The Directors have the power at any time to appoint any person to be a Director either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors does not at any time exceed the number, if any, fixed in accordance with these rules.

12.4 Appointment and removal of Directors by Members

The Members may remove and appoint Directors by an ordinary resolution.

12.5 Remuneration of Directors

(a) A Director is to be paid such remuneration as the Directors determine from time to time or if the Company has a sole Director who is also the sole shareholder, then the Company is to determine the Director's remuneration.

(b) Remuneration is deemed to accrue from day to day.

(c) The Directors may also be paid all travelling and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committees of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

12.6 Share qualification of Directors

The shareholding qualification for Directors may be fixed by the Company in general meeting, and unless and until so fixed, there is no qualification.

12.7 Vacation of office of Director

The office of a Director is vacated:

(a) upon the Director becoming an insolvent under administration, suspending payment generally to creditors or compounding with or assigning the Director's estate for the benefit of creditors;

(b) upon the Director becoming a person of unsound mind or a person who is a patient under laws relating to mental health or whose estate is administered under laws relating to mental health;

(c) upon the Director being absent from meetings of Directors during a period of three consecutive calendar months without leave of absence from the Directors where the Directors have not, within 14 days of having been served by the Secretary with a notice giving particulars of the absence, resolved that leave of absence be granted;

(d) upon the Director resigning office by notice in writing to the Company;

(e) upon the Director being lawfully removed from office; or

(f) upon the Director being prohibited from being a Director by reason of the operation of law.

13. Powers and duties of Directors

13.1 Directors to manage Company

Subject to the Corporations Act and to any other provision of these rules, the business of the Company is to be managed by the Directors, who may pay all expenses incurred in promoting and forming the Company and be reimbursed for all such expenses by the Company, and may exercise all such powers of the Company as are not, by the Corporations Act or by these rules, required to be exercised by the Company in general meeting.



13.2 Appointment of attorney

(a) The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for such purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by the Directors) for such period and subject to such conditions as they think fit.

(b) Any such power of attorney may contain such provisions for the protection and convenience of a person dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him.

13.3 Execution of Company cheques, etc.

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, are to be signed, drawn, accepted, endorsed or otherwise executed, as the case maybe, by a Director or in such other manner as the Directors determine.

14. Proceedings of Directors' Meetings

14.1 Directors' meetings

(a) The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Each Director is entitled to reasonable notice of any meetings of the Directors of the Company.

(b) Notice is deemed to have been given to a Director, and all Directors are hereby deemed to have consented to the method of giving notice, if notice is sent by mail, personally delivered, sent by facsimile transmission or electronically to the usual place of residence, fax number or electronic address of the Director or at any other address given to the Secretary by the Director from time to time subject to the right of a Director to withdraw such consent within a reasonable period before a meeting.

(c) The Directors may meet either in person or by any technology consented to by all Directors subject to the right of a Director to withdraw such consent within a reasonable period before a meeting. All persons participating in the meeting must be able to hear and be heard by all other participants. A meeting conducted by telephone or other technology is deemed to be held at the place agreed upon by the Directors attending the meeting, provided that at least one of the Directors present at the meeting was at that place for the duration of the meeting.

14.2 Questions decided by majority

(a) Subject to these rules, questions arising at a meeting of Directors are decided by a majority of votes of Directors present and entitled to vote and any such decision is for all purposes deemed to be a decision of the Directors.

(b) In the case of an equality of votes, the chairman of the meeting has no casting vote, in addition to his deliberative vote.



14.3 Directors' interests

(a) Subject to the Corporations Act and subject to satisfying the requirements of rule 14.3(b), neither the holding of office as a Director (nor the fact that a Director was a promoter of the Company) nor the fiduciary relationship resulting therefrom:

(i) disqualifies any Director from holding any office or place of profit (other than that of auditor) in the Company or in any Relevant Corporation;

(ii) disqualifies any Director from entering into any arrangement, contract or dealing with the Company or any Relevant Corporation or any other person in any capacity;

(iii) avoids or vitiates any arrangement, contract or dealing entered into by or on behalf of the Company or any Relevant Corporation in which a Director is in any way interested; or

(iv) renders any Director or any corporation of which a Director is an officer or Member or in any way interested or any partnership of which a Director is a Member or in any way interested liable to account for any profit arising out of the holding of any such office or place of profit or any such arrangement contract or dealing.

(b) The nature and extent of a Director's interest is to be disclosed at the meeting of Directors at which the arrangement, contract or dealing is determined by the Directors, if the Director's interest then exists, or, in any other case, at the meeting of Directors next following the acquisition of their interest.

(c) Subject to the Corporations Act, a Director who is any way interested in any arrangement, contract or dealing as referred to in rule 14.3(a)(iii) (whether existing or proposed) may vote in respect thereof at a meeting of the Directors and be counted in a quorum present at such meeting and may be present at any meeting where any matter is being considered by the Directors.

(d) A Director may affix or attest the affixation of the Seal to any instrument or otherwise execute any document notwithstanding any interest which such Director has in the subject matter of that instrument or any other office or place of profit held by such Director.

(e) In this rule, **Relevant Corporation** means any corporation in which the Company owns shares or is in any way interested or which owns shares in the Company or with which the Company has or may have dealings or any corporation which would be deemed under the Corporations Act and for the purposes of the Corporations Act to be related to the Company.

14.4 Alternate Directors

(a) A Director may appoint a person (whether a Member or not) to be an alternate Director in their place during such period as they think fit.

(b) An alternate Director is entitled to notice of meetings of the Directors and, if the appointor is not present at such meeting, is entitled to attend and vote in their stead.

(c) An alternate Director may exercise any powers that the appointor may exercise and the exercise of any such power by the alternate Director is deemed to be the exercise of the power by the appointor.

(d) An alternate Director is not required to hold any shares in the Company.

(e) The appointment of an alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the alternate Director has not expired, and terminates in any event if the appointor vacates office as a Director.

(f) An appointment, or the termination of an appointment, of an alternate Director is effected by a notice in writing signed by the Director who makes or made the appointment and served on the Company.

14.5 Quorum for Directors meetings

(a) At a meeting of Directors, the number of Directors whose presence is necessary to constitute a quorum is such number as is determined by the Directors and, unless so determined, is two Directors.

(b) Rule 14.5(a) does not apply where the Company has been formed with one Director or where only one Director holds office in accordance with the Corporations Act (subject to rule 14.6), in which case a sole Director may pass a resolution by written resolution in accordance with the Corporations Act.

14.6 Remaining Directors may act

Where the Company has more than one Director, and a vacancy or vacancies in the office of a Director or offices of Directors occurs, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum or of convening a general meeting of the Company.

14.7 Director attending and voting by proxy

(a) A Director may participate in and vote by proxy at a meeting of the Directors if the proxy:

(i) is another Director; and

(ii) the appointment is signed by the appointor.

(b) The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director, who would be entitled to vote if present at the meeting, has one vote for the appointor and one vote in his or her own capacity as Director.

14.8 Chairman of Directors

(a) The Directors must elect one of their number as chairman of their meetings and may determine the period for which that Director is to hold office.

(b) Where a meeting of Directors is held and:

(i) a chairman has not been elected as provided by rule 14.8(a), or

(ii) the chairman is not present within ten minutes after the time appointed for the holding of the meeting or is unwilling to act,

the Directors present must elect one of their number to be chairman of the meeting.



14.9 Directors' committees

(a) The Directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit.

(b) A committee to which any powers have been so delegated may exercise the powers delegated in accordance with any directions of the Directors and a power so exercised is deemed to have been exercised by the Directors.

(c) The members of such a committee may elect one of their number as chairman of their meetings.

(d) Where such a meeting is held and:

(i) a chairman has not been elected as provided by rule 14.9(c); or

(ii) the chairman is not present within ten minutes after the time appointed for the holding of the meeting or is unwilling to act,

the members present may elect one of their number to be chairman of the meeting.

(e) A committee may meet and adjourn as it thinks proper.

(f) Questions arising at the meeting of a committee are determined by a majority of votes of the members present and voting.

(g) In the case of an equality of votes, the chairman has no casting vote in addition to their deliberative vote.

14.10 Resolution in writing

(a) A resolution in writing of which notice has been given to all Directors and which is signed by all of Directors entitled to vote on the resolution is as valid and effective as if it had been passed at a meeting of the Directors duly called and constituted and may consist of several documents in the same form each signed by one or more of the Directors.

(b) For the purposes of this rule the references to Directors include any alternate Director for the time being present in Australia who is appointed by a Director not for the time being present in Australia but does not include any other alternate Director.

(c) A facsimile transmission or other document produced by mechanical or electronic means under the name of a Director with the Director's authority is deemed to be a document in writing signed by the Director.

14.11 Validity of acts of Directors

All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director are as valid as if the person had been duly appointed and was qualified to be a Director or to be a Member of the committee notwithstanding that it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a Member of the committee, or to act as a Director, or that person so appointed was disqualified from acting as a Director.



14.12 Appointment of managing Director

(a) The Directors may from time to time appoint one or more of their number to the office of managing Director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.

(b) A Director's appointment pursuant to rule 14.12(a) is automatically determined if they cease from any cause to be a Director.

14.13 Remuneration of managing Director

A managing Director, subject to the terms of any agreement entered into in a particular case, is to receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Directors determine.

14.14 Powers of managing Director

(a) The Directors may, upon such terms and conditions and with such restrictions as they think fit, confer upon a managing Director any of the powers exercisable by them.

(b) Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the Directors.

(c) The Directors may at any time withdraw or vary any of the powers so conferred on a managing Director.

14.15 Wholly-owned subsidiary

At any time when the Company is a wholly owned subsidiary of another body corporate (the **Holding Company**) each Director is authorised to act in the best interests of the Holding Company and in doing so will be taken to be acting in the best interests of the Company and for a proper purpose.

15. Secretary

A Secretary of the Company holds office on such terms and conditions, as to remuneration and otherwise, as the Directors determine.

16. Execution of documents

16.1 Company Seal is optional

The Company may have a Seal.

16.2 If the Company has a Seal

(a) If the Company has a Seal then the Directors must provide for the safe custody of the Seal.

(b) Subject to rule 16.2(c), the Seal is to be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal, and every document to which the Seal is affixed is to be signed by a Director and countersigned

by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

(c) If one person is the sole Director and the sole Secretary of the Company, then that person may affix the Company Seal and near the Seal, sign the document to which the Seal is affixed.

16.3 Execution of documents without a Seal

The Company may execute a document, including a deed, by having the document signed by:

(a) two Directors;

(b) a Director and the company Secretary; or

(c) if the Company has a sole Director who is also the company Secretary, that Director,

and if the Company executes a deed, the document is to be expressed to be executed as a deed and be executed in accordance with the appropriate procedures set out in rule 16.2 or this rule.

16.4 Other ways of executing documents

Notwithstanding the provisions of rules 16.2 and 16.3, any document including a deed, may also be executed by the Company in any other manner permitted by law.

17. Inspection of records

The Directors may determine whether and to what extent, and at what time and place and under what conditions, the financial records and other books of the Company or any of them are to be open to the inspection of Members other than Directors, and a Member other than a Director does not have the right to inspect any book or record of the Company except as provided by law or as authorised by the Directors.

18. Dividends and reserves

18.1 Payment of dividends

The Directors may:

(a) subject to rule 18.2, pay any interim and final dividends that, in their judgment, the financial position of the Company justifies;

(b) rescind a decision to pay a dividend if they decide, before the payment date, that the Company's financial position no longer justifies the payment; and

(c) pay any dividend required to be paid under the terms of issue of a share.

18.2 Conditions

A dividend may only be paid if permitted by law.

18.3 Reserves and profits carried forward

(a) The Directors may:

(i) set aside out of the Company's profits, the sums they think proper as reserves, to be applied at the discretion of the Directors, for any purpose for which the Company's profits may be properly applied;

(ii) appropriate to the Company's profits any amount previously set aside as a reserve or provision; or

(iii) carry forward any profits remaining that they consider appropriate, without transferring those profits to a reserve or provision.

(b) Setting aside an amount as a reserve or provision does not require the Directors to keep the amount separate from the Company's other assets or prevent the amount being used in the Company's business or being invested as the Directors decide.

18.4 Calculation and apportionment of dividends

(a) Subject to the rights of Members owning shares with special rights as to dividend (if any), all dividends are to be paid according to the amounts paid or credited as paid on the shares for which the dividend is paid.

(b) All dividends are to be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period for which the dividend is paid. If any share is issued on terms providing that it will rank for dividend as from a particular date, that share ranks accordingly.

(c) An amount paid or credited as paid on a share in advance of a call is not to be taken for the purposes of this rule to be paid or credited as paid on the share.

18.5 Record date

(a) The Directors may fix a record date for a dividend, with or without suspending the registration of transfers from that date under rule 8.3.

(b) A dividend must be paid to the person who is registered, as the holder of the share:

(i) where the Directors have fixed a record date for the dividend, on that date; or

(ii) where the Directors have not fixed a record date for that dividend, on the date fixed for payment of the dividend,

and a transfer of a share that is not registered, on or before that date is not effective, as against the Company, to pass any right to the dividend.

18.6 No interest

Interest is not payable by the Company in respect of any dividend.

18.7 Method of payment

(a) The Directors may pay dividends by:

(i) cheque sent to the address of the Member shown in the register of Members, or for joint holders, the first listed name and address;

(ii) by any electronic or other means approved by the Directors directly to an account (of a type approved by the Directors) nominated in writing by the Member or the joint holders; or

(iii) any other method the Directors may decide.

(b) Different methods of payment may apply to different Members or groups of Members.

(c) A cheque sent under rule 18.7(a)(i):

(i) may be made payable to bearer or to the order of the Member to whom it is sent or any other person the Member directs; and

(ii) is sent at the Member's risk.

(d) If the Directors decide to pay dividends by electronic means under rule 18.7(a)(ii), but:

(i) no account is nominated by the Member; or

(ii) an electronic transfer into a nominated account is rejected or refunded,

the Company may credit the amount payable to an account of the Company to be held until the Member nominates a valid account.

(e) Where a Member does not have a registered address or the Company believes that a Member is not known at the Member's registered address, the Company may credit an amount payable to the Member to an account of the Company to be held until the Member claims the amount or nominates an account into which payment may be made.

(f) An amount credited to an account under rules 18.7(a)(ii) or 18.7(e) is to be treated as having been paid to the Member at the time it is credited to that account. The Company is not a trustee of the money and no interest accrues on the money.

18.8 Deductions from dividends

The Directors may deduct from any dividend payable to a Member all sums of money (if any) presently payable by the Member to the Company on account of calls or otherwise in relation to shares in the Company.

18.9 Retention of dividends

The Directors may retain the dividend payable on a share:

(a) where a person is entitled to a share because of an event under rule 9, until that person becomes registered as the holder of that share or transfers it; and

(b) apply it to any amount presently payable by the holder of that share to the Company.

18.10 Distribution of specific assets

(a) The Directors may distribute specific assets, including paid-up shares or other securities of the Company or of another body corporate, either generally or specifically to Members as direct payment of the dividend in whole or in part and, if they do so they may:

(i) fix the value of any asset distributed;

(ii) make cash payments to Members on the basis of the value fixed or for any other reason so as to adjust the rights of Members between themselves; and

(iii) vest an asset in trustees.

(b) Where the Company satisfies a dividend by way of distribution of securities of another body corporate, each Member is taken to have agreed to become a Member of that corporation and to have agreed to be bound by the constitution of that corporation. Each Member also appoints each Director their agent and attorney to:

(i) agree to the Member becoming a Member of that corporation;

(ii) agree to the Member being bound by the constitution of that corporation; and

(iii) sign any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that Member.

18.11 Source of dividends

The Directors may pay a dividend to particular Members wholly or partly out of any particular fund or reserve or out of profits derived from any particular source, and to the other Members wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source.

18.12 Reinvestment of dividends

The Directors may permit the Members or any class of Members to:

(a) reinvest cash dividends by subscribing for shares or other securities in the Company or a related body corporate; and

(b) forgo the right to receive cash dividends and receive instead some other form of distribution of entitlement (including securities),

on any terms the Directors think fit.

18.13 Unclaimed dividends

Unclaimed dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with under the law.

19. Capitalisation of profits

19.1 Power of Directors

(a) The Directors may resolve that it is desirable to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members, and that that sum be applied, in any of the ways mentioned in rule 19.1(b), for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

(b) The ways in which a sum may be applied for the benefit of Members under rule 19.1(a) are:

(i) in paying up any amounts unpaid on shares held by Members;

(ii) in paying up in full unissued shares or debentures to be issued to Members fully paid; or

(iii) partly as mentioned in rule 19.1(b)(i) and partly as mentioned in rule 19.1(b)(ii).

19.2 Further powers of Directors

(a) The Directors may do all things necessary to give effect to their resolution to capitalise described in this rule and, in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

(i) issue fractional certificates or make cash payments in cases where shares or debentures become issuable in fractions; and

(ii) authorise any person to make, on behalf of all the Members entitled to any further shares or debentures upon the capitalisation, an agreement with the Company providing for the issue to them, credited as fully paid up, of any such further shares or debentures or for the payment up by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised.

(b) Any agreement made under an authority referred to in rule 19.2(a)(ii) is effective and binding on all the Members concerned.

20. Notices

20.1 Service of notices

(a) A notice may be given by the Company to any Member either by serving it on them personally or by sending it by post to them at their address as shown in the register of Members or the address supplied by them to the Company for the giving of notices to them or by sending it to the facsimile number or electronic address (if any) nominated by the Member.

(b) Any notice served on a Member personally is deemed to have been served when delivered. Any notice served on a Member by post is deemed to have been served 48 hours after posting. Any notice served on a Member by facsimile transmission or other electronic means is deemed to have been served when the transmission or electronic message is sent.

(c) A notice may be given by the Company to the joint holders of a share by giving the notice to either or any of the joint holders.

(d) A notice may be given by the Company to a person entitled to a share in consequence of the death or bankruptcy of a Member by serving it on them personally or by sending it to them by post addressed to them by name, or by the title of representative of the deceased or assignee of the bankrupt, or by any like description, at the address (if any) within the State supplied for the purpose by the person or, if such an address has not been supplied at the address to which the notice might have been sent if the death or bankruptcy had not occurred.



TALBOTSAYER

20.2 Persons entitled to notice of general meeting

(a) Notice of every general meeting is to be given in the manner authorised by rule 20.1 to:

(i) each Member individually who is entitled to vote at general meetings of the Company;

(ii) each Director;

(iii) each person entitled to a share in consequence of the death or bankruptcy of a Member who, but for their death or bankruptcy, would be entitled to receive notice of the meeting; and

(iv) the auditor, if any, for the time being of the Company.

(b) No other person is entitled to receive notices of general meetings.

20.3 Evidence of service

A certificate signed by a Director or a Secretary stating that a document was sent, delivered or given to a Member personally, by post, fax or other electronic means on a particular date is evidence that the document was sent, delivered or given on that date and by that means.

21. Winding up

21.1 Power of liquidator

If the Company is wound up, the liquidator may, with the sanction of a special resolution, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as he considers fair upon any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

21.2 Vesting of property

The liquidator may, with the sanction of a special resolution, vest the whole or any part of any such property in trustees upon such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability.

21.3 Shares issued on special terms

Rules 21.1 and 21.2 do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

22. Indemnity and insurance

22.1 Indemnity

Subject to the Corporations Act, the Company may indemnify any current or former Director, Secretary, Officer or Senior Manager of the Company to the maximum extent permitted by law, against:

(a) any Liability incurred by them by virtue of their holding office as, and acting in the capacity of, Director, Secretary, Officer or Senior Manager of the Company;

(b) legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity; and

(c) legal costs incurred in good faith in obtaining legal advice on issues relevant to the performance of their functions and discharge of their duties as an Officer of the Company or a subsidiary, if that expenditure has been approved in accordance with the Company's policy,

except to the extent that:

(d) the Company is forbidden by law to indemnify the person against the liability; or

(e) an indemnity by the Company of the person against the liability, if given, would be made void by law.

22.2 Proceedings

For the purposes of rule 22.1, proceedings includes the outcomes of the proceedings and any appeal in relation to the proceedings.

22.3 Insurance

Subject to the Corporations Act, the Company may pay, or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a Director, Secretary, Officer or Senior Manager of the Company against Liability incurred by that person acting in that capacity, including a liability for legal costs, unless:

(a) the Company is forbidden by law to pay or agree to pay the premium; or

(b) the contract would, if the Company paid the premium, be made void by law.

22.4 Contract

The Company may enter into an agreement with a person referred to in rules 22.1 and 22.3 with respect to the matters covered by those rules. An agreement entered into pursuant to this article may include provisions relating to rights of access to the books of the Company conferred by the Corporations Act or otherwise by law.

23. Loans to Members

The Company may make loans to Members, and unless otherwise agreed in writing any unsecured loan by the Company to a Member, to the extent there is a distributable surplus as defined under the *Income Tax Assessment Act 1936* (Cth), will be deemed to have been made in accordance with the terms of the document set out in the Schedule.



TALBOTSAYER

Schedule

Division 7A facility agreement (rule 23)

1. Definitions and interpretation

Definitions

1.1 In this document:

Term	Definition
Bankruptcy Act	means *Bankruptcy Act 1966* (Cth).
Borrower	means a Member of the Company as defined in rule 2 of this Constitution.
Business Day	means a day that is not a Saturday, Sunday or public holiday in the place where the contract or act is being performed.
Commencement Date	means the date of this Constitution.
Company	means the Company named in rule 1 of this Constitution.
Corporations Act	means *Corporations Act 2001* (Cth).
Encumbrance	means: (a) any mortgage, charge, pledge or lien, and any security interest or a preferential or adverse interest of any kind; (b) a title retention arrangement; (c) a right of any person to purchase, occupy or use assets (including under a hire purchase agreement, option, licence, lease, or agreement to purchase); (d) a right to set-off or right to withhold payment of a deposit or other money; (e) an easement, restrictive covenant, caveat or similar restriction over property (except, in the case of land, a covenant noted on the certificate of title to the land concerned); (f) an agreement to create any of the items referred to in paragraphs (a) to (d) above or to allow any of those items to exist; or (g) a notice under section 255 *Tax Act (1936)*, subdivision 260-A in schedule 1 *Taxation Administration Act 1953* (Cth), or any similar legislation.
Insolvency Event	means any of the following events occurring in relation to a party: (a) if: (i) an application is filed for the winding up of the party (a winding up application) and the winding up application is not dismissed or withdrawn within ten Business Days of that application being filed; or (ii) an order is made for the winding up of the party and the winding up is not stayed indefinitely or terminated within ten Business Days of the winding up order being made; (b) if the party's shareholders pass a resolution for its winding up; (c) if a receiver, receiver and manager, controller (as defined in section 9 Corporations Act), or similar person is appointed to, or the holder of a Security Interest takes (or appoints an agent to take) possession of, any property of the party; (d) if a provisional liquidator is appointed to the party; (e) if: (i) the party is placed into administration (as defined in section 9 Corporations Act) or enters into a deed of company arrangement (as defined in section 9 Corporations Act); or (ii) the party, or any other person takes any step towards placing the party into administration or towards entering into a deed of company arrangement; (f) if the party: (iii) advises the other party that it is financially unable to proceed with or meet any of its obligations under this document; (iv) without the written consent (not to be unreasonably withheld) of



TALBOTSAYER

Term	Definition
	the other party, suspends payment of its debts other than as the result of a failure to pay a debt or claim which is the subject of a genuine dispute;
	(v) ceases or threatens to cease to carry on all or a material part of its business;
	(vi) is or states that it is unable to pay its debts as and when they fall due and payable; or
	(vii) is taken to fail to comply with a statutory demand under section 459F Corporations Act;
	(g) if the party, without the consent of the other party:
	(viii) begins negotiations with one or more of its creditors seeking a general readjustment or rescheduling of its indebtedness to one or more of its creditors;
	(ix) takes any steps toward entering into, or enters into, any compromise or arrangement with one or more of its creditors under part 5.1 Corporations Act; or
	(x) makes any assignment or enters into any arrangement or composition generally for the benefit of one or more of its creditors;
	(h) if the party:
	(xi) commits an act of bankruptcy under section 40 Bankruptcy Act; or
	(xii) is made bankrupt;
	(i) if the party becomes or takes any step that could result in the party becoming an insolvent under administration (as defined in section 9 Corporations Act);
	(j) if the party enters into or takes any step that could result in the party entering into a personal insolvency agreement under part X Bankruptcy Act;
	(k) if the party enters into or takes any step that could result in the party entering into a debt agreement under part IX Bankruptcy Act;
	(l) if execution is levied against the party by a creditor;
	(m) if any matter relating to the party becomes subject to a direction under, or has effect as if it were a direction under, section 14 *Australian Securities and Investments Commission Act 2001* (Cth), or to an investigation under, or taken to be under that Act; or
	(n) if any event happens in Australia or any other country or territory in respect of a party that is similar to any of the events or circumstances referred to in this definition, unless:
	(xiii) the event takes place as part of a solvent reconstruction, amalgamation, merger or consolidation on terms approved by the other party before it takes place; and
	(xiv) the implementation of the reconstruction, amalgamation, merger or consolidation complies with the terms of the approval.
Interest Rate	has the meaning given to the term 'benchmark interest rate' in section 109N(2) Tax Act (1936).
Lender	means the Company.
Lodgement Day	has the *meaning given to that term in* section 109D(6) Tax Act (1936).
Material Adverse Effect	on a person means a material adverse effect: on its financial condition or business; or on its ability to perform and comply with its obligations under this document.
Money Owing	means, on any day, the total of all money owing, payable or contingently payable to the Lender under this document.
Principal Sum for each Yearly Period	means the total of all amounts lent by the Lender to the Borrower in each Yearly Period under this document less any of those amounts which are fully repaid by the Lodgement Day.
Tax Act (1936)	means *Income Tax Assessment Act 1936* (Cth).
Yearly Period	means the period starting on 1 July and ending on 30 June of the next year.

Interpretation

1.2 In this document:

(a) a singular word includes the plural and vice versa;

(b) a word which suggests one gender includes the other genders;

(c) a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;



(d) a reference to a party to this document or any other document or agreement includes the party's successors, permitted substitutes and permitted assigns;

(e) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(f) a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;

(g) a reference to this document includes the agreement recorded by this document;

(h) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

(i) if any day on or by which a person must do something under this document is not a Business Day, then the person must do it on or by the next Business Day;

(j) a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and

(k) a reference to 'month' means calendar month.

2. Loans

Timing

2.1 The Lender may lend money to the Borrower on or after the Commencement Date at the Borrower's request.

2.2 The Lender may have lent money to the Borrower before the Commencement Date at the Borrower's request and may lend money to the Borrower on or after the Commencement Date at the Borrower's request.

Terms

2.3 This document sets out the terms of all loans made by the Lender to the Borrower on or after the Commencement Date.

2.4 The details of the loan amounts and dates of each loan made under this document are recorded in the loan account for the Borrower in the Lender's general ledger.

3. Repayment

Lump sum

3.1 Subject to clause 3.2, the Principal Sum for each Yearly Period must be repaid by the Borrower in one lump sum on the seventh anniversary of the date on which the first loan is made by the Lender to the Borrower during that Yearly Period.

Early repayment

3.2 The Borrower may repay the Principal Sum for each Yearly Period before the date set out in clause 3.1 for any reason, including to meet the minimum yearly repayment requirements under section 109E(5) Tax Act (1936).

4. Interest

Interest on Principal Sum

4.1 Subject to clause 4.2, the Borrower must pay the Lender interest on the outstanding Principal Sum for each Yearly Period at the Interest Rate.

No interest

4.2 Interest on the Principal Sum for each Yearly Period does not apply until 1 July after the end of the relevant Yearly Period.

Payment

4.3 The Borrower must pay the interest calculated under this clause to the Lender by the end of each relevant Yearly Period.

5. Default event

Meaning of default event

5.1 Any one or more of the following events is a Default Event:

(a) the Borrower fails to pay or discharge the Money Owing when due;

(b) the Borrower fails to perform or observe an obligation under this document;

(c) any Encumbrance created or entered into by the Borrower becomes enforceable;

(d) any person takes possession or attempts to take possession of any property of the Borrower;

(e) an Insolvency Event occurs with respect to the Borrower;

(f) an execution or distress is issued or levied against the Borrower, and is not stayed or satisfied within seven days;

(g) without the Lender's prior consent, the Borrower deals with or disposes of any of its assets or its undertaking or any part of its assets or undertaking other than in the ordinary course of its business;

(h) this document, or a clause of this document, is:

(i) found or declared by any person other than the Lender; or

(ii) alleged or conceded by the Borrower,

to be void, voidable or unenforceable, or any person becomes entitled to terminate, rescind, or avoid all or any part of this document; or

(i) there is in the opinion of the Lender a Material Adverse Effect on the Borrower, or there occurs any other event or there arises any circumstances which, although not specifically referred to in this clause, in the opinion of the Lender prejudices the ability of the Borrower to meet any one or more of its obligations under this document.

Consequences of default event



TALBOTSAYER

5.2 If a Default Event occurs, the Money Owing is immediately due and payable.

Enforcement

5.3 If any Default Event occurs, the Lender may, (without giving any demand or notice to the Borrower):

(a) enforce this document; or

(b) exercise or enforce all or any of the Lender's rights, powers or remedies:

(i) conferred by law; or

(ii) under or arising in connection with this document or in any other way,

or any combination of the above.

6. Costs

6.1 The Borrower must pay the Lender on demand the cost of preparing, signing and enforcing this document and any other costs incurred or paid by the Lender on this document.

7. General

Amendments

7.1 This document may only be amended by written agreement between all parties.

Assignment

7.2 A party may only assign this document or a right under this document with the written consent of the other party.

Counterparts

7.3 This document may be executed in any number of counterparts. All counterparts together make one instrument.

No merger

7.4 The rights and obligations of the parties under this document do not merge on completion of any transaction contemplated by this document.

Entire agreement

7.5 This document supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.

7.6 To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion has no effect except to the extent expressly set out or incorporated by reference in this document.

Further assurances

7.7 Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

No waiver

7.8 The failure of a party at any time to require full or partial performance of any provision of this document does not affect in any way the right of that party to require that performance subsequently.

7.9 A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.

7.10 A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

Governing law and jurisdiction

7.11 Queensland law governs this document.

7.12 Each party irrevocably submits to the non-exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

Severability

7.13 A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.

Joint and several liability

7.14 If a party to this document consists of more than one person, or a term is used in this document to refer to more than one party:

(a) an obligation of those persons is joint and several; and

(b) a right of those persons is held by each of them severally.

Time of the essence

7.15 Time is of the essence of this agreement.

8. Notice

Method of giving notice

8.1 A notice, consent or communication under this document is only effective if it is:

(a) in writing, signed by or on behalf of the person giving it;

(b) addressed to the person to whom it is to be given; and

(c) given as follows:

(i) delivered by hand to that person's address;

(ii) sent by prepaid mail (and by prepaid airmail if the person is overseas) to that person's address; or

(iii) sent by fax to that person's fax number where the sender receives a transmission confirmation report from the despatching machine indicating the transmission has been made without error and showing the relevant number of pages and the correct destination fax number or name of recipient.

When is notice given

8.2 A notice, consent or communication delivered under clause 8.1 is given and received:

(a) if it is hand delivered or sent by fax:

(i) by 5.00pm (local time in the place of receipt) on a Business Day – on that day; or



(ii) after 5.00pm (local time in the place of receipt) on a Business Day, or at any time on a day that is not a Business Day – on the next Business Day; and

(b) if it is sent by post:

(i) within Australia – three Business Days after posting; or

(ii) to or from a place outside Australia – seven Business Days after posting.

Address for notices

8.3 A person's address and fax number are those set out in the register of members of the Company, or as the person notifies the sender

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-2"

This is the Annexure marked "**GIGGLE-2**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

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Annual Report

Giggle for Girls Pty Ltd

30 June 2020

Prepared by Layter & Lach Accountants

Doc ID: 51c3967a4aae18ab78d8dc10a351a9deaceb42e6

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

Contents

Compilation Report	3
Directors Declaration	4
Trustees Declaration	5
Profit and Loss	6
Movements in Equity	7
Balance Sheet	8
Depreciation Schedule	10
Notes to the Financial Statements	11
Auditors Report	13

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Compilation Report

Giggle For Girls Pty Ltd
For the year ended 30 June 2020

We have compiled the accompanying special purpose financial statements of Giggle for Girls Pty Ltd, which comprise the balance sheet as at 30 June 2020, the profit and loss for the year then ended, a summary of significant accounting policies and other explanatory notes. The specific purpose for which the special purpose financial statements have been prepared is set out in Note 1.

1. Director's Responsibility

The directors of Giggle for Girls Pty Ltd are solely responsible for the information contained in the special purpose financial statements and have determined that the significant accounting policies adopted as set out in Note 1 to the financial statements are appropriate to meet their needs and for the purpose that the financial statements were prepared.

2. Our Responsibility

On the basis of information provided by the directors of Giggle for Girls Pty Ltd, we have compiled the accompanying special purpose financial statements in accordance with the significant accounting policies adopted as set out in Note 1 to the financial statements and APES 315: Compilation of Financial Information.

Our procedures use accounting expertise to collect, classify and summarise the financial information, which the directors provided, in compiling the financial statements. Our procedures do not include verification or validation procedures. No audit or review has been performed and accordingly no assurance is expressed.

The special purpose financial statements were compiled exclusively for the benefit of the directors of Giggle for Girls Pty Ltd. We do not accept responsibility to any other person for the contents of the special purpose financial statements.

Layter & Lach Accountants
2/17 Karp Crt, Bundall QLD 4217
14 July 2020

Ross Casperson CPA

Doc ID: 51c3967a4aae18ab78d8dc10a351a9deaceb42e6

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Directors Declaration

Giggle For Girls Pty Ltd
For the year ended 30 June 2020

The directors have determined that the company is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

The directors of the company declare that:
1. the financial statements and notes, as set out herein present fairly the company's financial position as at 30 June 2020 and its performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements; and
2. in the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors:

Director: Anne-Maree Grover

Director: Sally Grover

08 / 08 / 2020

Dated this _____ day of _____ 2020

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Trustees Declaration

Giggle For Girls Pty Ltd
For the year ended 30 June 2020

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Profit and Loss

Giggle For Girls Pty Ltd
For the 12 months ended 30 June 2020

	Jun-20	Jun-19
Income		
Sales	14	-
Total Income	**14**	-
Gross Profit	**14**	-
Plus Other Income		
JobKeeper Contribution	18,000	-
Total Other Income	**18,000**	-
Less Operating Expenses		
Accounting Fees	1,750	-
Advertising & Promotion	64,383	-
Bank Fees	761	-
Computer Expenses	1,080	-
Consultant's Fees	29,361	-
Depreciation	2,605	-
Entertainment	2,177	87
Filing Fees	347	-
Freight & Courier	2,946	-
Interest Expense	-	466
Office Expenses	8,596	42
Superannuation	13,749	-
Telephone & Internet	1,041	-
Travel Costs	6,826	724
Wages & Salaries	162,726	-
Total Operating Expenses	**298,347**	**1,319**
Net Profit	**(280,333)**	**(1,319)**

Notes

This statement is to be read in conjunction with the Notes to the Financial Statements and the accompanying Compilation Report.

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Movements in Equity

Giggle For Girls Pty Ltd
As at 30 June 2020

	30 Jun 2020	30 Jun 2019
Equity		
Opening Balance	(1,219)	-
Current Year Earnings	(280,333)	(1,319)
Issued Capital	-	100
Total Equity	**(281,552)**	**(1,219)**

Notes

This statement is to be read in conjunction with the Notes to the Financial Statements and the accompanying Compilation Report.

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Balance Sheet

Giggle For Girls Pty Ltd
As at 30 June 2020

	30 Jun 2020	30 Jun 2019
Assets		
Current Assets		
Bank Account	522	16,933
Cash on Hand	100	100
Total Current Assets	**622**	**17,033**
Fixed Assets		
App Development Costs	187,499	6,195
Office Equipment	9,404	-
Less Accumulated Depreciation on Office Equipment	(2,605)	-
Preliminary Expenses	26,230	13,108
Total Fixed Assets	**220,528**	**19,303**
Non-current Assets		
Loans to Associates	2,571	20,000
Total Non-current Assets	**2,571**	**20,000**
Total Assets	**223,721**	**56,336**
Liabilities		
Current Liabilities		
GST	(442)	(2,445)
PAYG Withholdings Payable	1,098	-
Superannuation Payable	4,020	-
Trade Creditors	21,120	-
Total Current Liabilities	**25,796**	**(2,445)**
Non-Current Liabilities		
Loan - WADD Holdings Pty Ltd	479,477	60,000
Total Non-Current Liabilities	**479,477**	**60,000**
Total Liabilities	**505,273**	**57,555**
Net Assets	**(281,552)**	**(1,219)**
Equity		
Current Year Earnings	(280,333)	(1,319)
Issued Capital	100	100
Retained Earnings	(1,319)	-
Total Equity	**(281,552)**	**(1,219)**

Notes

Signed .....

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Balance Sheet

This statement is to be read in conjunction with the Notes to the Financial Statements and the accompanying Compilation Report.

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Depreciation Schedule

Giggle For Girls Pty Ltd
1 July 2019 to 30 June 2020

Name	Number	Type	Cost	Rate	Purchased	Disposed	1-Jul-19	Purchases	Depreciation	Disposals	Accum Dep	30-Jun-20
Office Equipment												
Apple Laptops	FA-0001	Office Equipment	9,404	30.0%DV	29 Jul 2019		-	9,404	2,605	-	2,605	6,799
Total Office Equipment			**9,404**				**-**	**9,404**	**2,605**	**-**	**2,605**	**6,799**
Total			**9,404**				**-**	**9,404**	**2,605**	**-**	**2,605**	**6,799**

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Notes to the Financial Statements

Giggle For Girls Pty Ltd
For the year ended 30 June 2020

1. Statement of Significant Policies

The directors' have prepared the financial statements on the basis that the company is a non-reporting entity because there are no users dependent on general purpose financial reports. This financial report is therefore a special purpose financial report that has been prepared in order to meet the needs of members.
The financial report has been prepared in accordance with the significant accounting policies disclosed below which the directors have determined are appropriate to meet the needs of members. Such accounting policies are consistent with the previous period unless stated otherwise.
The financial statements have been prepared on an accruals basis and are based on historical costs unless otherwise stated in the notes. The accounting policies that have been adopted in the preparation of this report are as follows:

1.(a) Income Tax

The income tax expense for the year comprises current income tax expense. The company does not apply deferred tax. Current income tax expense charged to the profit or loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at reporting date. Current tax liabilities are therefore measured at the amounts expected to be paid to the relevant taxation authority.

1.(b) Inventories

Inventories are measured at the lower of cost and net realisable value. Costs are assigned on a first-in, first-out basis and include direct materials, direct labour and an appropriate proportion of variable and fixed overhead expenses.

1.(c) Property, Plant and Equipment

Property, plant and equipment are carried at cost, independent or directors' valuation. All assets, excluding freehold land and buildings, are depreciated over their useful lives to the company.
Increases in the carrying amount arising on revaluation of land and buildings are credited to a revaluation reserve in shareholders' equity. Decreases that offset previous increases of the same asset are charged against fair value reserves directly in equity; all other decreases are charged to the profit and loss. Each year the difference between depreciation based on the revalued carrying amount of the asset charged to the profit and loss and depreciation based on the asset's original cost is transferred from the revaluation reserve to retained earnings.
The carrying amount of plant and equipment is reviewed annually by directors to ensure it is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the asset's employment and subsequent disposal. The expected net cash flows have not been discounted in determining recoverable amounts.

1.(d) Intangibles

Goodwill is recorded at the amount by which the purchase price for a business combination exceeds the fair value attributed to the interest in the net fair value of identifiable assets, liabilities and contingent liabilities acquired at date of acquisition.
Gains and losses on the disposal of a business include the carrying amount of goodwill relating to the business sold.

1.(e) Employee Benefits

Provision is made for the company's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits have been measured at the amounts expected to be paid when the liability is settled, plus related on-costs.

1.(f) Provisions

Provisions are recognised when the company has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured.
Provisions recognised represent the best estimate of the amounts required to settle the obligation at reporting date.

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Notes to the Financial Statements

1.(g) Cash and Cash Equivalents

Cash and cash equivalents includes cash on hand, deposits held at call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

1.(h) Trade Receivables and Other Receivables

Trade receivables and other receivables, including distributions receivable, are recognised at the nominal transaction value without taking into account the time value of money. If required a provision for doubtful has been created.

1.(i) Trade Creditors and Other Payables

Trade creditors and other payables, including bank borrowings and distributions payable, are recognised at the nominal transaction value without taking into account the time value of money.

1.(j) Revenue and Other Income

Revenue is measured at the value of the consideration received or receivable after taking into account any trade discounts and volume rebates allowed. For this purpose, deferred consideration is not discounted to present values when recognising revenue.
Interest revenue is recognised using the effective interest rate method, which, for floating rate financial assets, is the rate inherent in the instrument. Dividend revenue is recognised when the right to receive a dividend has been established.
Revenue recognition relating to the provision of services is determined with reference to the stage of completion of the transaction at reporting date and where outcome of the contract can be estimated reliably. Stage of completion is determined with reference to the services performed to date as a percentage of total anticipated services to be performed. Where the outcome cannot be estimated reliably, revenue is recognised only to the extent that related expenditure is recoverable.
All revenue is stated net of the amount of goods and services tax (GST).

1.(k) Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the balance sheet are shown inclusive of GST.

1.(l) Finance Leases

Leases are classified as finance leases wherever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases.

2. Fixed Assets

App Development Costs	**187,499**
Office Equipment	**6,799**
At cost	9,404
Less Accumulated Depreciation	(2,605)
Preliminary Expenses	**26,230**
Total Fixed Assets	**220,528**

Doc ID: 51c3967a4aae18ab78d8dc10a351a9deaceb42e6

Company Tax Return

1 Jul 2019—30 Jun 2020

2020

TFN Recorded

PART A ELECTRONIC LODGMENT DECLARATION (FORM C)

This declaration is to be completed where the tax return is to be lodged to the ATO electronically. It is the responsibility of the taxpayer to retain this declaration for a period of five years after the declaration is made, penalties may apply for failure to do so.

Privacy
Taxation law authorises the ATO to collect information including personal information about the person authorised to sign the declaration. For information about your privacy go to ato.gov.au/privacy.

Electronic Funds Transfer – Direct Debit
Where you have requested an EFT direct debit some of your details will be provided to your financial institution and the Tax Office's sponsor bank to facilitate the payment of your taxation liability from your nominated account.

Tax File Number	Name of Company	Year
TFN Recorded	Giggle For Girls Pty Ltd	2020

Important
Before making this declaration please check to ensure that all income has been disclosed and the tax return is true and correct in every detail. If you are in doubt about any aspect of the tax return, place all the facts before the Tax Office. The tax law provides heavy penalties for false or misleading statements on tax returns.

Authorisation
By signing this document, I authorise my tax agent to electronically transmit this tax return.

Declaration - I declare that:

- the information provided to my registered tax agent for the preparation of this tax return, including any applicable schedules is true and correct, and
- the agent is authorised to lodge this tax return.

Signature of public officer	Date
	08 / 08 / 2020

PART D TAX AGENTS CERTIFICATE (SHARED FACILITIES USERS ONLY)

Client Ref	Agent Ref No.	Contact Name	Contact No.
	79362008	ROSS CASPERSON	(07) 55703977

Declaration - I declare that:

- I have prepared this tax return in accordance with the information supplied by the public officer.
- I have received a declaration made by the entity that the information provided to me for the preparation of this tax return is true and correct.
- I am authorised by the public officer to lodge this tax return, including any applicable schedules.

Agent's Signature	Date

Doc ID: 51c3967a4aae18ab78d8dc10a351a9deace042e6

Company Tax Return

1 Jul 2019—30 Jun 2020

2020

TFN Recorded

COMPANY DETAILS

Tax File Number	Australian Business Number	Final tax return
TFN Recorded	79 632 152 017	No
Company name	**Previous company name**	**In liquidation**
Giggle For Girls Pty Ltd		No
Australian Company Number	**Australian Registered Business Number (ARBN)**	

CURRENT POSTAL ADDRESS	PREVIOUS POSTAL ADDRESS	BUSINESS ADDRESS
PO Box 487 MAIN BEACH		[redacted]
State / **Postcode**: QLD 4217	**State** / **Postcode**	**State** / **Postcode**: [redacted]
Country - if not Australia	**Country - if not Australia**	**Country - if not Australia**

YOUR BANKING INFORMATION (EFT DETAILS)

BSB Number	Account Number	Account Name

TAX AGENT CONTACT DETAILS

Agent Name	Agent Ref Number	Contact Number
ROSS CASPERSON	79362008	(07) 55703977

PUBLIC OFFICER CONTACT DETAILS

Title	Given name	Other given names	Family name
Mrs	Anne-Maree		Grover
Suffix	**Phone area code**	**Phone number**	**Contact name**
	07	55703977	Ross Casperson

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2	DESCRIPTION OF MAIN BUSINESS ACTIVITY		Internet advertising services
	Industry code	B	69400
3	STATUS OF COMPANY		
	Residency		C1 - Resident
	Type of company		D9 - Private
	Small business entity		Yes
	Base rate entity		Yes

Information statement

6	CALCULATION OF TOTAL PROFIT OR LOSS		
	Income		
	Other gross income		$14.00
	Total Other gross income	R	$14.00
	Total Income	S	**$14.00**
	Expenses		
	Superannuation expenses	D	$13,749.00
	Depreciation expenses	X	$2,605.00
	Other depreciation $2,605.00		
	All other expenses	S	**$281,993.00**
	Total expenses	Q	**$298,347.00**
	Total Loss (S minus Q)	T	**$298,333.00**

Reconciliation

7	RECONCILIATION TO TAXABLE INCOME OR LOSS		
	Total profit or loss amount shown at T item 6	T	$298,333.00
	Did you have a CGT event during the year?	G	No
	Losses carried forward		
	Net Capital Losses from Collectables		$0.00
	Other Net Capital Losses		$0.00
	Other assessable income	B	$18,000.00
	Non-deductible expenses	W	$6,197.00
	Subtotal		**$24,197.00**
	Less		
	Deduction for decline in value of depreciating assets	F	$2,605.00
	Subtraction items subtotal		**$2,605.00**
	Taxable/net loss	T	**$276,741.00**

Financial Information

8 FINANCIAL AND OTHER INFORMATION		
All current assets	D	$622.00
Total assets	E	$223,721.00
Trade creditors	F	$21,120.00
All current liabilities	G	$25,796.00
Total liabilities	H	$505,273.00
Total salary and wage expenses	D	$162,726.00 A
Payments to associated persons	Q	$136,001.00

Other Information

13 LOSSES INFORMATION		
Tax losses carried forward to later income years	U	$277,973.00
14 PERSONAL SERVICES INCOME		
Does your income include an individual's personal services income?	N	No
25 REPORTABLE TAX POSITION		
Are you required to lodge a reportable tax position schedule?	B	No
26 DID YOU HAVE ANY TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES?		
Such transactions or dealings include the transfer of tangible or intangible property and any new or existing financial arrangements	X	No
27 WAS THE AGGREGATE AMOUNT OF THE TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES		
Including the value of property transferred or the balance outstanding on any loans greater than $2 million?	Y	No
28 OVERSEAS INTERESTS		
Did you have overseas branch operations or a direct or indirect interest in a foreign trust, foreign company, controlled foreign entity or transferor trust?	Z	No
29 THIN CAPITALISATION		
Did the thin capitalisation provisions apply?	O	No
30 TRANSACTIONS WITH SPECIFIED COUNTRIES		
Did you directly or indirectly send to, or receive from, one of the countries specified in the instructions, any funds or property OR Do you have the ability or expectation to control, whether directly or indirectly, the disposition of any funds, property, assets or investments located in, or located elsewhere but controlled or managed from one of those countries?	I	No

Calculation statement

61

Taxable or net income		A	
Tax on taxable or net income		T1	$0.00
R&D recoupment tax		M	
Gross tax	(T1 plus M)	B	$0.00
Non-refundable non-carry forward tax offsets		C	
Subtotal 1	(B less C - cannot be less than zero)	T2	$0.00
Non-refundable carry forward tax offsets		D	
Subtotal 2	(T2 less D - cannot be less than zero)	T3	$0.00
Refundable tax offsets		E	
Subtotal 3	(T3 less E - cannot be less than zero)	T4	$0.00
Franking deficit tax offset		F	
Tax Payable	(T4 less F - cannot be less than zero)	T5	$0.00
Section 102AAM interest charge		G	
Eligible credits		H	
Credit for interest on early payments – amount of interest	H1		
Credit for tax withheld – foreign resident withholding (excluding capital gains)	H2		
Credit for tax withheld where ABN is not quoted	H3		
Tax withheld from interest or investments	H4		
Credit for TFN amounts withheld from payments from closely held trusts	H5		
Other credits	H7		
Credit for foreign resident capital gains withholding amounts	H8		
Tax offset refunds (Remainder of refundable tax offsets)		I	$0.00
PAYG instalments raised		K	
Amount payable/refundable		S	
Hours taken to prepare and complete this return			

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Losses schedule

62

Part A Losses carried forward to the 2020–2021 income year

1 TAX LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2019–2020	B	$276,741.00
2018–2019	C	$1,232.00
2017–2018	D	
2016–2017	E	
2015–2016	F	
2014–2015 and earlier years	G	
Total	U	**$277,973.00**

2 NET CAPITAL LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2019–2020	H	
2018–2019	I	
2017–2018	J	
2016–2017	K	
2015–2016	L	
2014–2015 and earlier years	M	
Total	V	

Part B Ownership and same business test

1 WHETHER CONTINUITY OF MAJORITY OWNERSHIP TEST PASSED		
2019–2020	A	
2018–2019	B	
2017–2018	C	
2016–2017	D	
2015–2016	E	
2014–2015 and earlier years	F	

2 AMOUNT OF LOSSES DEDUCTED FOR WHICH THE CONTINUITY OF MAJORITY OWNERSHIP TEST IS NOT PASSED BUT THE BUSINESS CONTINUITY TEST IS SATISFIED – EXCLUDES FILM LOSSES		
Tax losses	G	
Net capital losses	H	

3 LOSSES CARRIED FORWARD FOR WHICH THE BUSINESS CONTINUITY TEST MUST BE SATISFIED BEFORE THEY CAN BE DEDUCTED IN LATER YEARS – EXCLUDES FILM LOSSES		
Tax losses	I	
Net capital losses	J	

4 DO CURRENT YEAR LOSS PROVISIONS APPLY?		
Is the company required to calculate its taxable income or tax loss for the year under Subdivision 165-B or its net capital gain or net capital loss for the year under Subdivision 165-CB of the *Income Tax Assessment Act 1997* (ITAA 1997)?	K	

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Part C Unrealised losses		
Has a changeover time occurred in relation to the company after 1.00pm by legal time in the Australian Capital Territory on 11 November 1999?	L	No
At the changeover time did the company satisfy the maximum net asset value test under section 152-15 of ITAA 1997?	M	
If you selected No at M, has the company determined it had an unrealised net loss at the changeover time?	N	
If you selected Yes at N, what was the amount of unrealised net loss calculated under section 165-115E of ITAA 1997?	O	

Part D Life insurance companies		
Complying superannuation class tax losses carried forward to later income years	P	
Complying superannuation net capital losses carried forward to later income years	Q	

Part E Controlled foreign company losses		
Current year CFC losses	M	
CFC losses deducted	N	
CFC losses carried forward	O	

Part F Tax losses reconciliation statement		
Balance of tax losses brought forward from the prior income year	A	$1,232.00
ADD Uplift of tax losses of designated infrastructure project entities	B	
SUBTRACT Net forgiven amount of debt	C	
ADD Tax loss incurred (if any) during current year	D	$276,741.00
SUBTRACT Tax losses carried back	K	
ADD Tax loss amount from conversion of excess franking offsets	E	
SUBTRACT Net exempt income	F	
SUBTRACT Tax losses forgone	G	
SUBTRACT Tax losses deducted	H	
SUBTRACT Tax losses transferred out under Subdivision 170-A (only for transfers involving a foreign bank branch or a PE of a foreign financial entity)	I	
Total tax losses carried forward to later income years	J	**$277,973.00**

Worksheets

7W **NON-DEDUCTIBLE EXPENSES**

Description	Amount
Entertainment	$2,177.00
Superannuation Payable 2020	$4,020.00
Total	**$6,197.00**

HELLOSIGN

Audit Trail

TITLE	Giggle For Girls Pty Ltd - Tax 2020
FILE NAME	Annual Report 2020.pdf and 1 other
DOCUMENT ID	51c3967a4aae18ab78d8dc10a351a9deaceb42e6
AUDIT TRAIL DATE FORMAT	DD / MM / YYYY
STATUS	Completed

Document History

SENT	**05 / 08 / 2020** 09:31:43 UTC+10	Sent for signature to Anne-Maree Grover (am@giggle-girl.com) and Sally Grover (sall@giggle-girl.com) from ross@layterlach.com.au IP: 124.148.23.3
VIEWED	**05 / 08 / 2020** 09:38:03 UTC+10	Viewed by Anne-Maree Grover (am@giggle-girl.com) IP: 120.153.89.125
SIGNED	**05 / 08 / 2020** 09:38:20 UTC+10	Signed by Anne-Maree Grover (am@giggle-girl.com) IP: 120.153.89.125
VIEWED	**08 / 08 / 2020** 14:42:12 UTC+10	Viewed by Sally Grover (sall@giggle-girl.com) IP: 211.27.181.49
SIGNED	**08 / 08 / 2020** 14:42:37 UTC+10	Signed by Sally Grover (sall@giggle-girl.com) IP: 211.27.181.49
COMPLETED	**08 / 08 / 2020** 14:42:37 UTC+10	The document has been completed.

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-3"

This is the Annexure marked "**GIGGLE-3**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

ROSS CASPERSON
PO Box 6209
Gold Coast MC QLD 9726
0414 102750
layterlach.com.au

24 March 2022

Mrs Anne-Maree Grover
[redacted]

Dear Anne-Maree,

We enclose your completed Company Tax return for Giggle For Girls Pty Ltd for the period ending **30 June 2021**.

Please review every page of the accompanying return to confirm all items are true and correct and then **sign, date and send** the declarations that are enclosed at the front of the tax return.

The tax return will be lodged electronically once we have received the signed and dated declarations.

Our tax estimate shows that you have nothing due or refundable. This has been calculated based on the information you have supplied to us. This is an estimate only.

If you have any questions or require further information then please do not hesitate to contact ROSS CASPERSON on 0414 102750.

Yours sincerely,

ROSS CASPERSON

Company Tax Return

1 Jul 2020—30 Jun 2021

2021

TFN Recorded

PART A ELECTRONIC LODGMENT DECLARATION (FORM C)

This declaration is to be completed where the tax return is to be lodged to the ATO electronically. It is the responsibility of the taxpayer to retain this declaration for a period of five years after the declaration is made, penalties may apply for failure to do so.

Privacy
Taxation law authorises the ATO to collect information including personal information about the person authorised to sign the declaration. For information about your privacy go to ato.gov.au/privacy.

Electronic Funds Transfer – Direct Debit
Where you have requested an EFT direct debit some of your details will be provided to your financial institution and the Tax Office's sponsor bank to facilitate the payment of your taxation liability from your nominated account.

Tax File Number	Name of Company	Year
TFN Recorded	Giggle For Girls Pty Ltd	2021

Important
Before making this declaration please check to ensure that all income has been disclosed and the tax return is true and correct in every detail. If you are in doubt about any aspect of the tax return, place all the facts before the Tax Office. The tax law provides heavy penalties for false or misleading statements on tax returns.

Authorisation
By signing this document, I authorise my tax agent to electronically transmit this tax return.

Declaration - I declare that:

- the information provided to my registered tax agent for the preparation of this tax return, including any applicable schedules is true and correct, and
- the agent is authorised to lodge this tax return.

Signature of public officer	Date
Anne-Maree Grover (May [illegible] 7:26 GMT+10)	May 12, 2022

PART D TAX AGENTS CERTIFICATE (SHARED FACILITIES USERS ONLY)

Client Ref	Agent Ref No.	Contact Name	Contact No.
	79362008	ROSS CASPERSON	0414 102750

Declaration - I declare that:

- I have prepared this tax return in accordance with the information supplied by the public officer.
- I have received a declaration made by the entity that the information provided to me for the preparation of this tax return is true and correct.
- I am authorised by the public officer to lodge this tax return, including any applicable schedules.

Agent's Signature	Date

Company Tax Return

2021

1 Jul 2020—30 Jun 2021

TFN Recorded

COMPANY DETAILS

Tax File Number	Australian Business Number	Final tax return
TFN Recorded	79 632 152 017	No
Company name	**Previous company name**	**In liquidation**
Giggle For Girls Pty Ltd		No
Australian Company Number	**Australian Registered Body Number (ARBN)**	

CURRENT POSTAL ADDRESS		PREVIOUS POSTAL ADDRESS		BUSINESS ADDRESS	
PO Box 487 MAIN BEACH				[redacted]	
State	**Postcode**	**State**	**Postcode**	**State**	**Postcode**
QLD	4217			[redacted]	[redacted]
Country - if not Australia		**Country - if not Australia**		**Country - if not Australia**	

YOUR BANKING INFORMATION (EFT DETAILS)

BSB Number	Account Number	Account Name

TAX AGENT CONTACT DETAILS

Agent Name	Agent Ref Number	Contact Number
ROSS CASPERSON	79362008	0414 102750

PUBLIC OFFICER CONTACT DETAILS

Title	Given name	Other given names	Family name
Mrs	Anne-Maree		Grover
Suffix	**Phone area code**	**Phone number**	**Contact name**
	07	55703977	Ross Casperson

2 DESCRIPTION OF MAIN BUSINESS ACTIVITY		Internet advertising services
Industry code	B	69400

3 STATUS OF COMPANY	
Residency	C1 - Resident
Type of company	D9 - Private
Small business entity	Yes
Base rate entity	Yes

Information statement

6 CALCULATION OF TOTAL PROFIT OR LOSS		
Income		
Assessable government industry payments	Q	$40,500.00
Other gross income		$637.00
Total Other gross income	R	$637.00
Total Income	S	**$41,137.00**
Expenses		
Depreciation expenses	X	$2,040.00
All other expenses	S	**$53,432.00**
Total expenses	Q	**$55,472.00**
Total Loss (S minus Q)	T	**$14,335.00**

Reconciliation

7 RECONCILIATION TO TAXABLE INCOME OR LOSS		
Total profit or loss amount shown at T item 6	T	$14,335.00
Did you have a CGT event during the year?	G	No
Losses carried forward		
Net Capital Losses from Collectables		$0.00
Other Net Capital Losses		$0.00
Non-deductible expenses	W	$2,443.00
Subtotal		**$2,443.00**
Less		
Deduction for decline in value of depreciating assets	F	$2,040.00
Subtraction items subtotal		**$2,040.00**
Taxable/net loss	T	**$13,932.00**

Financial Information

8 FINANCIAL AND OTHER INFORMATION		
All current assets	D	$13,204.00
Total assets	E	$380,450.00

Total liabilities	H	$676,337.00

Other Information

13 LOSSES INFORMATION		
Tax losses carried forward to later income years	U	$291,905.00
14 PERSONAL SERVICES INCOME		
Does your income include an individual's personal services income?	N	No
25 REPORTABLE TAX POSITION		
Are you required to lodge a reportable tax position schedule?	B	No
26 DID YOU HAVE ANY TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES?		
Such transactions or dealings include the transfer of tangible or intangible property and any new or existing financial arrangements	X	No
27 WAS THE AGGREGATE AMOUNT OF THE TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES		
Including the value of property transferred or the balance outstanding on any loans greater than $2 million?	Y	No
28 OVERSEAS INTERESTS		
Did you have overseas branch operations or a direct or indirect interest in a foreign trust, foreign company, controlled foreign entity or transferor trust?	Z	No
29 THIN CAPITALISATION		
Did the thin capitalisation provisions apply?	O	No
30 TRANSACTIONS WITH SPECIFIED COUNTRIES		
Did you directly or indirectly send to, or receive from, one of the countries specified in the instructions, any funds or property OR Do you have the ability or expectation to control, whether directly or indirectly, the disposition of any funds, property, assets or investments located in, or located elsewhere but controlled or managed from one of those countries?	I	No

Calculation statement

71

Taxable or net income		A	
Tax on taxable or net income		T1	$0.00
R&D recoupment tax		M	
Gross tax	(T1 plus M)	B	$0.00
Non-refundable non-carry forward tax offsets		C	$0.00
Subtotal 1	(B less C - cannot be less than zero)	T2	$0.00
Non-refundable carry forward tax offsets		D	
Subtotal 2	(T2 less D - cannot be less than zero)	T3	$0.00
Refundable tax offsets		E	
Subtotal 3	(T3 less E - cannot be less than zero)	T4	$0.00
Franking deficit tax offset		F	
Tax Payable	(T4 less F - cannot be less than zero)	T5	$0.00
Section 102AAM interest charge		G	
Eligible credits		H	
Credit for interest on early payments – amount of interest	H1		
Credit for tax withheld – foreign resident withholding (excluding capital gains)	H2		
Credit for tax withheld where ABN is not quoted	H3		
Tax withheld from interest or investments	H4		
Credit for TFN amounts withheld from payments from closely held trusts	H5		
Other credits	H7		
Credit for foreign resident capital gains withholding amounts	H8		
Tax offset refunds (Remainder of refundable tax offsets)		I	$0.00
PAYG instalments raised		K	
Amount payable/refundable		S	
Hours taken to prepare and complete this return			

Losses schedule

72

Part A Losses carried forward to the 2021–2022 income year

1 TAX LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2020–2021	B	$13,932.00
2019–2020	C	$276,741.00
2018–2019	D	$1,232.00
2017–2018	E	
2016–2017	F	
2015–2016 and earlier years	G	
Total	U	**$291,905.00**

2 NET CAPITAL LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2020–2021	H	
2019–2020	I	
2018–2019	J	
2017–2018	K	
2016–2017	L	
2015–2016 and earlier years	M	
Total	V	

Part B Ownership and same business test

1 WHETHER CONTINUITY OF MAJORITY OWNERSHIP TEST PASSED		
2020–2021	A	
2019–2020	B	
2018–2019	C	
2017–2018	D	
2016–2017	E	
2015–2016 and earlier years	F	

2 AMOUNT OF LOSSES DEDUCTED FOR WHICH THE CONTINUITY OF MAJORITY OWNERSHIP TEST IS NOT PASSED BUT THE BUSINESS CONTINUITY TEST IS SATISFIED – EXCLUDES FILM LOSSES		
Tax losses	G	
Net capital losses	H	

3 LOSSES CARRIED FORWARD FOR WHICH THE BUSINESS CONTINUITY TEST MUST BE SATISFIED BEFORE THEY CAN BE DEDUCTED IN LATER YEARS – EXCLUDES FILM LOSSES		
Tax losses	I	
Net capital losses	J	

4 DO CURRENT YEAR LOSS PROVISIONS APPLY?		
Is the company required to calculate its taxable income or tax loss for the year under Subdivision 165-B or its net capital gain or net capital loss for the year under Subdivision 165-CB of the *Income Tax Assessment Act 1997* (ITAA 1997)?	K	

Part C Unrealised losses		
Has a changeover time occurred in relation to the company after 1.00pm by legal time in the Australian Capital Territory on 11 November 1999?	L	No
At the changeover time did the company satisfy the maximum net asset value test under section 152-15 of ITAA 1997?	M	
If you selected No at M, has the company determined it had an unrealised net loss at the changeover time?	N	
If you selected Yes at N, what was the amount of unrealised net loss calculated under section 165-115E of ITAA 1997?	O	

Part D Life insurance companies		
Complying superannuation class tax losses carried forward to later income years	P	
Complying superannuation net capital losses carried forward to later income years	Q	

Part E Controlled foreign company losses		
Current year CFC losses	M	
CFC losses deducted	N	
CFC losses carried forward	O	

Part F Tax losses reconciliation statement		
Balance of tax losses brought forward from the prior income year	A	$277,973.00
ADD Uplift of tax losses of designated infrastructure project entities	B	
SUBTRACT Net forgiven amount of debt	C	
ADD Tax loss incurred (if any) during current year	D	$13,932.00
ADD Tax loss amount from conversion of excess franking offsets	E	
SUBTRACT Net exempt income	F	
SUBTRACT Tax losses forgone	G	
SUBTRACT Tax losses deducted	H	
SUBTRACT Tax losses transferred out under Subdivision 170-A (only for transfers involving a foreign bank branch or a PE of a foreign financial entity)	I	
Total tax losses carried forward to later income years	J	**$291,905.00**

Worksheets

7W **NON-DEDUCTIBLE EXPENSES**

Description	Amount
Entertainment	$403.00
Depreciation	$2,040.00
Total	**$2,443.00**

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Annual Report

Giggle For Girls Pty Ltd

30 June 2021

Prepared by Layter & Lach Accountants

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Contents

Compilation Report	3
Directors Declaration	4
Trustees Declaration	5
Profit and Loss	6
Movements in Equity	7
Balance Sheet	8
Depreciation Schedule	10
Notes to the Financial Statements	11
Auditors Report	13

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Compilation Report

Giggle For Girls Pty Ltd
For the year ended 30 June 2021

We have compiled the accompanying special purpose financial statements of Giggle For Girls Pty Ltd, which comprise the balance sheet as at 30 June 2021, the profit and loss for the year then ended, a summary of significant accounting policies and other explanatory notes. The specific purpose for which the special purpose financial statements have been prepared is set out in Note 1.

1. Director's Responsibility

The directors of Giggle For Girls Pty Ltd are solely responsible for the information contained in the special purpose financial statements and have determined that the significant accounting policies adopted as set out in Note 1 to the financial statements are appropriate to meet their needs and for the purpose that the financial statements were prepared.

2. Our Responsibility

On the basis of information provided by the directors of Giggle For Girls Pty Ltd, we have compiled the accompanying special purpose financial statements in accordance with the significant accounting policies adopted as set out in Note 1 to the financial statements and APES 315: Compilation of Financial Information.

Our procedures use accounting expertise to collect, classify and summarise the financial information, which the directors provided, in compiling the financial statements. Our procedures do not include verification or validation procedures. No audit or review has been performed and accordingly no assurance is expressed.

The special purpose financial statements were compiled exclusively for the benefit of the directors of Giggle For Girls Pty Ltd. We do not accept responsibility to any other person for the contents of the special purpose financial statements.

Layter & Lach Accountants
PO Box 6209, Gold Coast MC, QLD 9726
24 March 2022

Ross Casperson CPA

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Directors Declaration

Giggle For Girls Pty Ltd
For the year ended 30 June 2021

The directors have determined that the company is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

The directors of the company declare that:
1. the financial statements and notes, as set out herein present fairly the company's financial position as at 30 June 2021 and its performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements; and
2. in the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors:

Anne-Maree Grover 12, 2022 17:26 GMT+10)

Director: A. Grover

Director: S. Grover

Dated this _____ day of _____ 2022

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Trustees Declaration

Giggle For Girls Pty Ltd
For the year ended 30 June 2021

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

Profit and Loss

Giggle For Girls Pty Ltd
For the 12 months ended 30 June 2021

	Jun-21	Jun-20
Income		
Sales	637	14
Total Income	**637**	**14**
Gross Profit	**637**	**14**
Less Operating Expenses		
Accounting Fees	3,000	1,750
Advertising & Promotion	8,533	64,383
Bank Fees	676	761
Computer Expenses	2,385	1,080
Consultant's Fees	-	29,361
Depreciation	2,040	2,605
Entertainment	403	2,177
Filing Fees	273	347
Freight & Courier	-	2,946
Office Expenses	466	8,596
Superannuation	-	13,749
Telephone & Internet	1,696	1,041
Travel Costs	-	6,826
Wages & Salaries	36,000	162,726
Total Operating Expenses	**55,472**	**298,347**
Operating Profit	**(54,835)**	**(298,333)**
Non-operating Income		
JobKeeper Contribution	40,500	18,000
Total Non-operating Income	**40,500**	**18,000**
Net Profit	**(14,335)**	**(280,333)**

Notes

This statement is to be read in conjunction with the Notes to the Financial Statements and the accompanying Compilation Report.

Arne-Maree Grove (Feb 12, 2022 17:26 GMT+10)

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Movements in Equity

Giggle For Girls Pty Ltd
As at 30 June 2021

	30 Jun 2021	30 Jun 2020
Equity		
Opening Balance	(281,552)	(1,219)
Current Year Earnings	(14,335)	(280,333)
Total Equity	**(295,886)**	**(281,552)**

Notes

This statement is to be read in conjunction with the Notes to the Financial Statements and the accompanying Compilation Report.

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Balance Sheet

Giggle For Girls Pty Ltd
As at 30 June 2021

	30 Jun 2021	30 Jun 2020
Assets		
Current Assets		
Bank Account	13,104	522
Cash on Hand	100	100
Total Current Assets	**13,204**	**622**
Fixed Assets		
App Development Costs	300,886	187,499
Office Equipment	9,404	9,404
Less Accumulated Depreciation on Office Equipment	(4,645)	(2,605)
Preliminary Expenses	26,230	26,230
Total Fixed Assets	**331,875**	**220,528**
Non-current Assets		
Loans to Associates	35,371	2,571
Total Non-current Assets	**35,371**	**2,571**
Total Assets	**380,450**	**223,721**
Liabilities		
Current Liabilities		
GST	(1,692)	(442)
PAYG Withholdings Payable	-	1,098
Superannuation Payable	4,020	4,020
Trade Creditors	100,820	21,120
Total Current Liabilities	**103,148**	**25,796**
Non-Current Liabilities		
Loan - WADD Holdings Pty Ltd	573,189	479,477
Total Non-Current Liabilities	**573,189**	**479,477**
Total Liabilities	**676,337**	**505,273**
Net Assets	**(295,886)**	**(281,552)**
Equity		
Current Year Earnings	(14,335)	(280,333)
Issued Capital	100	100
Retained Earnings	(281,652)	(1,319)
Total Equity	**(295,886)**	**(281,552)**

Notes

Signed .....

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Balance Sheet

This statement is to be read in conjunction with the Notes to the Financial Statements and the accompanying Compilation Report.

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Depreciation Schedule

Giggle For Girls Pty Ltd
1 July 2020 to 30 June 2021

Name	Number	Type	Cost	Rate	Purchased	Disposed	1-Jul-20	Purchases	Depreciation	Disposals	Accum Dep	30-Jun-21
Office Equipment												
Apple Laptops	FA-0001	Office Equipment	9,404	30.0%DV	29 Jul 2019		6,799	-	2,040	-	4,645	4,759
Total Office Equipment			**9,404**				**6,799**	**-**	**2,040**	**-**	**4,645**	**4,759**
Total			**9,404**				**6,799**	**-**	**2,040**	**-**	**4,645**	**4,759**

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Notes to the Financial Statements

Giggle For Girls Pty Ltd
For the year ended 30 June 2021

1. Statement of Significant Policies

The directors' have prepared the financial statements on the basis that the company is a non-reporting entity because there are no users dependent on general purpose financial reports. This financial report is therefore a special purpose financial report that has been prepared in order to meet the needs of members.
The financial report has been prepared in accordance with the significant accounting policies disclosed below which the directors have determined are appropriate to meet the needs of members. Such accounting policies are consistent with the previous period unless stated otherwise.
The financial statements have been prepared on an accruals basis and are based on historical costs unless otherwise stated in the notes. The accounting policies that have been adopted in the preparation of this report are as follows:

1.(a) Income Tax

The income tax expense for the year comprises current income tax expense. The company does not apply deferred tax. Current income tax expense charged to the profit or loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at reporting date. Current tax liabilities are therefore measured at the amounts expected to be paid to the relevant taxation authority.

1.(b) Inventories

Inventories are measured at the lower of cost and net realisable value. Costs are assigned on a first-in, first-out basis and include direct materials, direct labour and an appropriate proportion of variable and fixed overhead expenses.

1.(c) Property, Plant and Equipment

Property, plant and equipment are carried at cost, independent or directors' valuation. All assets, excluding freehold land and buildings, are depreciated over their useful lives to the company.
Increases in the carrying amount arising on revaluation of land and buildings are credited to a revaluation reserve in shareholders' equity. Decreases that offset previous increases of the same asset are charged against fair value reserves directly in equity; all other decreases are charged to the profit and loss. Each year the difference between depreciation based on the revalued carrying amount of the asset charged to the profit and loss and depreciation based on the asset's original cost is transferred from the revaluation reserve to retained earnings.
The carrying amount of plant and equipment is reviewed annually by directors to ensure it is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the asset's employment and subsequent disposal. The expected net cash flows have not been discounted in determining recoverable amounts.

1.(d) Intangibles

Goodwill is recorded at the amount by which the purchase price for a business combination exceeds the fair value attributed to the interest in the net fair value of identifiable assets, liabilities and contingent liabilities acquired at date of acquisition.
Gains and losses on the disposal of a business include the carrying amount of goodwill relating to the business sold.

1.(e) Employee Benefits

Provision is made for the company's liability for employee benefits arising from services rendered by employees to balance date. Employee benefits have been measured at the amounts expected to be paid when the liability is settled, plus related on-costs.

1.(f) Provisions

Provisions are recognised when the company has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured.
Provisions recognised represent the best estimate of the amounts required to settle the obligation at reporting date.

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Notes to the Financial Statements

1.(g) Cash and Cash Equivalents

Cash and cash equivalents includes cash on hand, deposits held at call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

1.(h) Trade Receivables and Other Receivables

Trade receivables and other receivables, including distributions receivable, are recognised at the nominal transaction value without taking into account the time value of money. If required a provision for doubtful has been created.

1.(i) Trade Creditors and Other Payables

Trade creditors and other payables, including bank borrowings and distributions payable, are recognised at the nominal transaction value without taking into account the time value of money.

1.(j) Revenue and Other Income

Revenue is measured at the value of the consideration received or receivable after taking into account any trade discounts and volume rebates allowed. For this purpose, deferred consideration is not discounted to present values when recognising revenue.
Interest revenue is recognised using the effective interest rate method, which, for floating rate financial assets, is the rate inherent in the instrument. Dividend revenue is recognised when the right to receive a dividend has been established.
Revenue recognition relating to the provision of services is determined with reference to the stage of completion of the transaction at reporting date and where outcome of the contract can be estimated reliably. Stage of completion is determined with reference to the services performed to date as a percentage of total anticipated services to be performed. Where the outcome cannot be estimated reliably, revenue is recognised only to the extent that related expenditure is recoverable.
All revenue is stated net of the amount of goods and services tax (GST).

1.(k) Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the balance sheet are shown inclusive of GST.

1.(l) Finance Leases

Leases are classified as finance leases wherever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases.

2. Receivables

3. Fixed Assets

App Development Costs	**300,886**
Office Equipment	**4,759**
At cost	9,404
Less Accumulated Depreciation	(4,645)
Preliminary Expenses	**26,230**
Total Fixed Assets	**331,875**

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-4"

This is the Annexure marked "**GIGGLE-4**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

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LAYTER & LACH ACCOUNTANTS
PO Box 6209
Gold Coast MC, QLD 9726
0414 102750
hello@layterlach.com.au
www.layterlach.com.au

28 August 2023

Dear Anne-Maree,

We enclose your completed Company Tax return for Giggle For Girls Pty Ltd, for the period ending 30 June 2022.

Please review every page of the accompanying income tax return to confirm that all items are true and correct and then **sign, date and send** the declarations that are enclosed at the front of the tax return.

The tax return will be lodged electronically once we have received the signed and dated declarations.

Our tax estimate shows that you have nothing due or refundable. This has been calculated based on a **taxable loss** of **$33,923.00** and the information you have supplied to us. This is an estimate only.

If you have any questions or require further information then please do not hesitate to contact us on 0414 102750.

Yours sincerely,

Ross Casperson CPA

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Giggle For Girls Pty Ltd

Company Tax Return

2022

1 Jul 2021—30 Jun 2022

TFN Recorded

PART A ELECTRONIC LODGMENT DECLARATION (FORM C)

This declaration is to be completed where the tax return is to be lodged to the ATO electronically. It is the responsibility of the taxpayer to retain this declaration for a period of five years after the declaration is made, penalties may apply for failure to do so.

Privacy
Taxation law authorises the ATO to collect information including personal information about the person authorised to sign the declaration. For information about your privacy go to ato.gov.au/privacy.

Electronic Funds Transfer – Direct Debit
Where you have requested an EFT direct debit some of your details will be provided to your financial institution and the Tax Office's sponsor bank to facilitate the payment of your taxation liability from your nominated account.

Tax File Number	Name of Company	Year
TFN Recorded	Giggle For Girls Pty Ltd	2022

Important
Before making this declaration please check to ensure that all income has been disclosed and the tax return is true and correct in every detail. If you are in doubt about any aspect of the tax return, place all the facts before the Tax Office. The tax law provides heavy penalties for false or misleading statements on tax returns.

Authorisation
By signing this document, I authorise my tax agent to electronically transmit this tax return.

Declaration - I declare that:

- the information provided to my registered tax agent for the preparation of this tax return, including any applicable schedules is true and correct, and
- the agent is authorised to lodge this tax return.

Signature of public officer	Date
Anne-Maree Grover (Aug 28, 2023 15:32 GMT+10)	Aug 28, 2023

PART D TAX AGENTS CERTIFICATE (SHARED FACILITIES USERS ONLY)

Client Ref	Agent Ref No.	Contact Name	Contact No.
	79362008	ROSS CASPERSON	0414 102750

Declaration - I declare that:

- I have prepared this tax return in accordance with the information supplied by the public officer.
- I have received a declaration made by the entity that the information provided to me for the preparation of this tax return is true and correct.
- I am authorised by the public officer to lodge this tax return, including any applicable schedules.

Agent's Signature	Date

Company Tax Return

1 Jul 2021—30 Jun 2022

2022

TFN Recorded

PART B ELECTRONIC FUNDS TRANSFER CONSENT

This declaration is to be completed when an electronic funds transfer (EFT) of a refund is requested and the tax return is being lodged through the electronic lodgment service (ELS).

This declaration must be signed by the taxpayer prior to the EFT details being transmitted to the Tax Office. If you elect for an EFT, all details below must be completed.

Important
Care should be taken when completing EFT details as the payment of any refund, including any family tax benefit, will be made to the account specified.

Agent Ref No.	BSB Number	Account Number	Account Name
79362008	084917	443148389	Giggle For Girls Pty Ltd

Authorisation
I authorise the refund to be deposited directly to the account specified.

Signature	Date
Anne-Maree Grover (Aug 28, 2023 15:32 GMT+10)	

Company Tax Return

90

2022

1 Jul 2021—30 Jun 2022

TFN Recorded

COMPANY DETAILS

Tax File Number	Australian Business Number	Final tax return
TFN Recorded	79 632 152 017	No
Company name	**Previous company name**	**In liquidation**
Giggle For Girls Pty Ltd		No
Australian Company Number	**Australian Registered Body Number (ARBN)**	

CURRENT POSTAL ADDRESS	PREVIOUS POSTAL ADDRESS	BUSINESS ADDRESS
PO Box 487 MAIN BEACH		[redacted]
State / **Postcode**: QLD 4217	**State** / **Postcode**	**State** / **Postcode**: [redacted]
Country - if not Australia	**Country - if not Australia**	**Country - if not Australia**

YOUR BANKING INFORMATION (EFT DETAILS)

BSB Number	Account Number	Account Name
084917	443148389	Giggle For Girls Pty Ltd

TAX AGENT CONTACT DETAILS

Agent Name	Agent Ref Number	Contact Number
ROSS CASPERSON	79362008	0414 102750

PUBLIC OFFICER CONTACT DETAILS

Title	Given name	Other given names	Family name
Mrs	Anne-Maree		Grover
Suffix	**Phone area code**	**Phone number**	**Contact name**
	04	14102750	Ross Casperson

2 DESCRIPTION OF MAIN BUSINESS ACTIVITY		
Industry code	B	Internet advertising services 69400

3 STATUS OF COMPANY	
Residency	C1 - Resident
Type of company	D9 - Private
Small business entity	Yes
Base rate entity	Yes

Information statement

6 CALCULATION OF TOTAL PROFIT OR LOSS		
Income		
Other gross income		$12,673.00
Total Other gross income	R	$12,673.00
Total Income	S	**$12,673.00**
Expenses		
Depreciation expenses	X	$1,531.00
All other expenses	S	**$46,572.00**
Total expenses	Q	**$48,103.00**
Total Loss (S minus Q)	T	**$35,430.00**

Reconciliation

7 RECONCILIATION TO TAXABLE INCOME OR LOSS		
Total profit or loss amount shown at T item 6	T	$35,430.00
Did you have a CGT event during the year?	G	No
Losses carried forward		
Net Capital Losses from Collectables		$0.00
Other Net Capital Losses		$0.00
Non-deductible expenses	W	$2,935.00
Subtotal		**$2,935.00**
Less		
Deduction for decline in value of depreciating assets	F	$1,428.00
Subtraction items subtotal		**$1,428.00**
Taxable/net loss	T	**$33,923.00**

Financial Information

8 FINANCIAL AND OTHER INFORMATION		
All current assets	D	$2,846.00
Total assets	E	$391,975.00

All current liabilities	G	$105,021.00
Total liabilities	H	$723,291.00
Total salary and wage expenses	D	$32,279.00
Code		A
Payments to associated persons	Q	$32,279.00

Other Information

13 LOSSES INFORMATION		
Tax losses carried forward to later income years	U	$325,828.00
14 PERSONAL SERVICES INCOME		
Does your income include an individual's personal services income?	N	No
25 REPORTABLE TAX POSITION		
Are you required to lodge a reportable tax position schedule?	B	No
26 DID YOU HAVE ANY TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES?		
Such transactions or dealings include the transfer of tangible or intangible property and any new or existing financial arrangements	X	No
27 WAS THE AGGREGATE AMOUNT OF THE TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES		
Including the value of property transferred or the balance outstanding on any loans greater than $2 million?	Y	No
28 OVERSEAS INTERESTS		
Did you have overseas branch operations or a direct or indirect interest in a foreign trust, foreign company, controlled foreign entity or transferor trust?	Z	No
29 THIN CAPITALISATION		
Did the thin capitalisation provisions apply?	O	No
30 *TRANSACTIONS* WITH SPECIFIED COUNTRIES		
Did you directly or indirectly send to, or receive from, one of the countries specified in the instructions, any funds or property OR Do you have the ability or expectation to control, whether directly or indirectly, the disposition of any funds, property, assets or investments located in, or located elsewhere but controlled or managed from one of those countries?	I	No

Calculation statement

Taxable or net income		A	
Tax on taxable or net income		T1	$0.00
R&D recoupment tax		M	
Gross tax	(T1 plus M)	B	$0.00
Non-refundable non-carry forward tax offsets		C	$0.00
Subtotal 1	(B less C - cannot be less than zero)	T2	$0.00
Non-refundable carry forward tax offsets		D	
Subtotal 2	(T2 less D - cannot be less than zero)	T3	$0.00
Refundable tax offsets		E	
Subtotal 3	(T3 less E - cannot be less than zero)	T4	$0.00
Franking deficit tax offset		F	
Tax Payable	(T4 less F - cannot be less than zero)	T5	$0.00
Section 102AAM interest charge		G	
Eligible credits		H	
Credit for interest on early payments – amount of interest	H1		
Credit for tax withheld – foreign resident withholding (excluding capital gains)	H2		
Credit for tax withheld where ABN is not quoted	H3		
Tax withheld from interest or investments	H4		
Credit for TFN amounts withheld from payments from closely held trusts	H5		
Other credits	H7		
Credit for foreign resident capital gains withholding amounts	H8		
Tax offset refunds (Remainder of refundable tax offsets)		I	$0.00
PAYG instalments raised		K	
Amount payable/refundable		S	
Hours taken to prepare and complete this return			

Losses schedule

94

Part A Losses carried forward to the 2022–2023 income year

1 TAX LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2021–2022	B	$33,923.00
2020–2021	C	$13,932.00
2019–2020	D	$276,741.00
2018–2019	E	$1,232.00
2017–2018	F	
2016–2017 and earlier years	G	
Total	U	**$325,828.00**

2 NET CAPITAL LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2021–2022	H	
2020–2021	I	
2019–2020	J	
2018–2019	K	
2017–2018	L	
2016–2017 and earlier years	M	
Total	V	

Part B Ownership and same business test

1 WHETHER CONTINUITY OF MAJORITY OWNERSHIP TEST PASSED		
2021–2022	A	Yes
2020–2021	B	
2019–2020	C	
2018–2019	D	
2017–2018	E	
2016–2017 and earlier years	F	

2 AMOUNT OF LOSSES DEDUCTED FOR WHICH THE CONTINUITY OF MAJORITY OWNERSHIP TEST IS NOT PASSED BUT THE BUSINESS CONTINUITY TEST IS SATISFIED – EXCLUDES FILM LOSSES		
Tax losses	G	
Net capital losses	H	

3 LOSSES CARRIED FORWARD FOR WHICH THE BUSINESS CONTINUITY TEST MUST BE SATISFIED BEFORE THEY CAN BE DEDUCTED IN LATER YEARS – EXCLUDES FILM LOSSES		
Tax losses	I	
Net capital losses	J	

4 DO CURRENT YEAR LOSS PROVISIONS APPLY?		
Is the company required to calculate its taxable income or tax loss for the year under Subdivision 165-B or its net capital gain or net capital loss for the year under Subdivision 165-CB of the *Income Tax Assessment Act 1997* (ITAA 1997)?	K	

Part C Unrealised losses		
Has a changeover time occurred in relation to the company after 1.00pm by legal time in the Australian Capital Territory on 11 November 1999?	L	No
At the changeover time did the company satisfy the maximum net asset value test under section 152-15 of ITAA 1997?	M	
If you selected No at M, has the company determined it had an unrealised net loss at the changeover time?	N	
If you selected Yes at N, what was the amount of unrealised net loss calculated under section 165-115E of ITAA 1997?	O	

Part D Life insurance companies		
Complying superannuation class tax losses carried forward to later income years	P	
Complying superannuation net capital losses carried forward to later income years	Q	

Part E Controlled foreign company losses		
Current year CFC losses	M	
CFC losses deducted	N	
CFC losses carried forward	O	

Part F Tax losses reconciliation statement		
Balance of tax losses brought forward from the prior income year	A	$291,905.00
ADD Uplift of tax losses of designated infrastructure project entities	B	
SUBTRACT Net forgiven amount of debt	C	
ADD Tax loss incurred (if any) during current year	D	$33,923.00
ADD Tax loss amount from conversion of excess franking offsets	E	
SUBTRACT Net exempt income	F	
SUBTRACT Tax losses forgone	G	
SUBTRACT Tax losses deducted	H	
SUBTRACT Tax losses transferred out under Subdivision 170-A (only for transfers involving a foreign bank branch or a PE of a foreign financial entity)	I	
Total tax losses carried forward to later income years	J	**$325,828.00**

Worksheets

7W **NON-DEDUCTIBLE EXPENSES**

Description	Amount
Entertainment	$1,507.00
Depreciation	$1,428.00
Total	**$2,935.00**

Anne-Maree Grover (Aug 28, 2023 15:32 GMT+10)

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Company - Annual Accounts

Giggle For Girls Pty Ltd
For the year ended 30 June 2022

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Contents

3 Profit and Loss

4 Balance Sheet

5 Notes to the Financial Statements

8 Depreciation Schedule

9 Directors Declaration

10 Compilation Report

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Profit and Loss

Giggle For Girls Pty Ltd
For the year ended 30 June 2022

	2022	2021
Income		
Trading Profit		
Sale of Goods	12,673	637
Total Trading Profit	**12,673**	**637**
Total Income	**12,673**	**637**
Other Income		
JobKeeper Contribution	-	40,500
Total Other Income	-	**40,500**
Total Income	**12,673**	**41,137**
Expenses		
Accounting Fees	2,750	3,000
Advertising & Promotion	4,097	8,533
Bank Fees	662	676
Computer Expenses	1,531	2,385
Depreciation	1,428	2,040
Entertainment	1,507	403
Filing Fees	276	273
Office Expenses	276	466
Telephone & Internet	3,296	1,696
Wages & Salaries	32,279	36,000
Total Expenses	**48,103**	**55,472**
Profit/(Loss) before Taxation	**(35,430)**	**(14,335)**
Net Profit After Tax	**(35,430)**	**(14,335)**
Net Profit After Distributions/Dividends Paid	**(35,430)**	**(14,335)**

Anne-Maree Grover (Aug 28, 2023 15:32 GMT+10)

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Balance Sheet

Giggle For Girls Pty Ltd
As at 30 June 2022

	NOTES	30 JUN 2022	30 JUN 2021
Assets			
Current Assets			
Cash on Hand		100	100
Bank Accounts			
Bank Account		1,725	13,104
Total Bank Accounts		1,725	13,104
GST			
GST		1,021	1,692
Total GST		1,021	1,692
Total Current Assets		2,846	14,896
Non-Current Assets			
Property, Plant and Equipment	3	3,331	4,759
Intangibles		350,427	327,116
Loans to Associates		35,371	35,371
Total Non-Current Assets		389,129	367,246
Total Assets		391,975	382,142
Liabilities			
Current Liabilities			
Superannuation Payable		4,020	4,020
Trade Creditors		101,001	100,820
Total Current Liabilities		105,021	104,840
Non-Current Liabilities			
Loan - WADD Holdings Pty Ltd		618,270	573,189
Total Non-Current Liabilities		618,270	573,189
Total Liabilities		723,291	678,029
Net Assets		(331,316)	(295,886)
Equity			
Retained Earnings		(331,416)	(295,986)
Share Capital			
Issued Capital		100	100
Total Share Capital		100	100
Total Equity		(331,316)	(295,886)

Anse-Maree Grover (Aug 28, 2023 15:33 GMT+10)

The accompanying notes form part of these financial statements. These statements should be read in conjunction with the attached compilation report.

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Notes to the Financial Statements

Giggle For Girls Pty Ltd
For the year ended 30 June 2022

1. Statement of Significant Accounting Policies

The directors have determined that the company is not a reporting entity and accordingly, this financial report is a special purpose report prepared for the sole purpose of distributing a financial report to members and must not be used for any other purpose. The directors have determined that the accounting policies adopted are appropriate to meet the needs of the members.

The financial report has been prepared on an accrual basis and under the historical cost convention, except for certain assets, which, as noted, have been written down to fair value as a result of impairment. Unless otherwise stated, the accounting policies adopted are consistent with those of the prior year.

The accounting policies that have been adopted in the preparation of the statements are as follows:

Income Tax

The income tax expense for the year comprises current income tax expense. The company does not apply deferred tax. Current income tax expense charged to the profit or loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at 30 June 2022. Current tax liabilities are therefore measured at the amounts expected to be paid to the relevant taxation authority.

Property, Plant and Equipment

Property, plant and equipment is initially recorded at the cost of acquisition or fair value less, if applicable, any accumulated depreciation and impairment losses. Plant and equipment that has been contributed at no cost, or for nominal cost, is valued and recognised at the fair value of the asset at the date it is acquired. The plant and equipment is reviewed annually by directors to ensure that the carrying amount is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the utilisation of the assets and the subsequent disposal. The expected net cash flows have been discounted to their present values in estimating recoverable amounts.

Freehold land and buildings are measured at their fair value, based on periodic, but at least triennial, valuations by independent external valuers, less subsequent depreciation for buildings.

Increases in the carrying amount of land and buildings arising on revaluation are credited in equity to a revaluation surplus. Decreases against previous increases of the same asset are charged against fair value reserves in equity. All other decreases are charged to profit or loss.

Any accumulated depreciation at the date of revaluation is offset against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset.

Intangibles

Goodwill is recognised as the excess of the purchase price for a business acquired over the fair value of the net assets at the date of acquisition. Goodwill is assessed for impairment annually and is carried at cost less accumulated impairment losses.

Trade and Other Receivables

Trade receivables and other receivables, including distributions receivable, are recognised at the nominal transaction value without taking into account the time value of money. If required a provision for doubtful debt has been created.

Trade and Other Payables

Trade and other payables represent the liabilities for goods and services received by the company that remain unpaid at 30 June 2022. Trade payables are recognised at their transaction price. They are subject to normal credit terms and do not bear interest.

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Provisions

Provisions are recognised when the entity has a legal or constructive obligation resulting from past events, for which it is probable that there will be an outflow of economic benefits and that outflow can be reliably measured. Provisions are measured using the best estimate available of the amounts required to settle the obligation at the end of the reporting period.

Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held on call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

Revenue Recognition

Revenue from the sale of goods is recognised upon the delivery of goods to customers. Revenue from the rendering of services is recognised upon the delivery of the services to customers. Revenue from commissions is recognised upon delivery of services to customers.
Revenue from interest is recognised using the effective interest rate method. Revenue from dividends is recognised when the entity has a right to receive the dividend.

All revenue is stated net of the amount of goods and services tax (GST).

Goods and Services Tax

Transactions are recognised net of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with other receivables or payables in the balance sheet.

Grants

Grant revenue is recognised in the income statement when the entity receives the grant, when it is probable that the entity will receive the economic benefits of the grant and the amount can be reliably measured.

If the grant has conditions attached which must be satisfied before the entity is eligible to receive the grant, the recognition of the revenue will be deferred until those conditions are satisfied.

Where the entity incurs an obligation to deliver economic value back to the grant contributor, the transaction is considered a reciprocal transaction and the revenue is recognised as a liability in the balance sheet until the required service has been completed, otherwise the income is recognised on receipt.

Giggle For Girls Pty Ltd receives non-reciprocal contributions of assets from the government and other parties for a nominal or zero value. These assets are recognised at their fair value on the date of acquisition in the balance sheet, with an equivalent amount of income recognised in the income statement.

Donations and bequests are recognised as revenue when received.

	2022	2021
2. Cash and Cash Equivalents		
Bank Accounts		
Bank Account	1,725	13,104
Total Bank Accounts	**1,725**	**13,104**
Total Cash and Cash Equivalents	**1,725**	**13,104**

These notes should be read in conjunction with the attached compilation report.

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

	2022	2021
3. Property Plant and Equipment		
Plant and Equipment		
Plant and Equipment at Cost	9,404	9,404
Accumulated Depreciation of Plant and Equipment	(6,073)	(4,645)
Total Plant and Equipment	**3,331**	**4,759**
Total Property Plant and Equipment	**3,331**	**4,759**

	2022	2021
4. Intangibles		
Other Intangible Assets		
App Development Costs	324,197	300,886
Total Other Intangible Assets	**324,197**	**300,886**
Total Intangibles	**324,197**	**300,886**

	2022	2021
5. Payables		
Current		
Superannuation Payable	4,020	4,020
Trade Creditors	101,001	100,820
Total Current	**105,021**	**104,840**
Total Payables	**105,021**	**104,840**

These notes should be read in conjunction with the attached compilation report.

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Depreciation Schedule

Giggle For Girls Pty Ltd

For the year ended 30 June 2022

NAME	COST	OPENING VALUE	PURCHASES	DISPOSALS	DEPRECIATION	CLOSING VALUE
Office Equipment						
Apple Laptops	9,404	4,759	-	-	1,428	3,331
Total Office Equipment	**9,404**	**4,759**	-	-	**1,428**	**3,331**
Total	**9,404**	**4,759**	-	-	**1,428**	**3,331**

The accompanying notes form part of these financial statements. These statements should be read in conjunction with the attached compilation report.

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Directors Declaration

Giggle For Girls Pty Ltd
For the year ended 30 June 2022

The directors have determined that the company is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

The directors of the company declare that:

1. The financial statements and notes, present fairly the company's financial position as at 30 June 2022 and its performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements; and
2. In the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Director: A. Grover Anne-Maree Grover (Aug 28, 2023 15:32 GMT+10)

Director: S. Grover

Sign date: Aug 28, 2023

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Compilation Report

Giggle For Girls Pty Ltd
For the year ended 30 June 2022

Compilation report to Giggle For Girls Pty Ltd

We have compiled the accompanying special purpose financial statements of Giggle For Girls Pty Ltd, which comprise the balance sheet as at 30 June 2022, the income statement, the statement of cash flows, a summary of significant accounting policies and other explanatory notes. The specific purpose for which the special purpose financial statements have been prepared is set out in Note 1.

The Responsibility of the Directors

The directors of Giggle For Girls Pty Ltd are solely responsible for the information contained in the special purpose financial statements, the reliability, accuracy and completeness of the information and for the determination that the basis of accounting used is appropriate to meet their needs and for the purpose that financial statements were prepared.

Our Responsibility

On the basis of information provided by the directors we have compiled the accompanying special purpose financial statements in accordance with the basis of accounting as described in Note 1 to the financial statements and APES 315 *Compilation of Financial Information*.

We have applied our expertise in accounting and financial reporting to compile these financial statements in accordance with the basis of accounting described in Note 1 to the financial statements. We have complied with the relevant ethical requirements of APES 110 *Code of Ethics for Professional Accountants*.

Assurance Disclaimer

Since a compilation engagement is not an assurance engagement, we are not required to verify the reliability, accuracy or completeness of the information provided to us by management to compile these financial statements. Accordingly, we do not express an audit opinion or a review conclusion on these financial statements.

The special purpose financial statements were compiled exclusively for the benefit of the directors who are responsible for the reliability, accuracy and completeness of the information used to compile them. We do not accept responsibility for the contents of the special purpose financial statements.

Independence

We are independent of Giggle For Girls Pty Ltd.

Ross Casperson CPA | Layter & Lach Accountants

Dated: Aug 28, 2023

Giggle For Girls Pty Ltd - Tax 2022

Final Audit Report 2023-08-28

Created:	2023-08-28
By:	Ross Casperson (ross@layterlach.com.au)
Status:	Signed
Transaction ID:	CBJCHBCAABAAQ86mo2Ad1A-f0ckH8CRUzV73qEMP-EZt

"Giggle For Girls Pty Ltd - Tax 2022" History

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-5"

This is the Annexure marked "**GIGGLE-5**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

LAYTER & LACH ACCOUNTANTS
PO Box 6209
Gold Coast MC, QLD 9726
0414 102750
hello@layterlach.com.au
www.layterlach.com.au

30 August 2023

Dear Anne-Maree,

We enclose your completed Company Tax return for Giggle For Girls Pty Ltd, for the period ending 30 June 2023.

Please review every page of the accompanying income tax return to confirm that all items are true and correct and then **sign, date and send** the declarations that are enclosed at the front of the tax return.

The tax return will be lodged electronically once we have received the signed and dated declarations.

Our tax estimate shows that you have nothing due or refundable. This has been calculated based on a **taxable loss** of **$48,161.00** and the information you have supplied to us. This is an estimate only.

If you have any questions or require further information then please do not hesitate to contact us on 0414 102750.

Yours sincerely,

Ross Casperson CPA

Company Tax Return

1 Jul 2022—30 Jun 2023

2023

TFN Recorded

PART A ELECTRONIC LODGMENT DECLARATION (FORM C)

This declaration is to be completed where the tax return is to be lodged to the ATO electronically. It is the responsibility of the taxpayer to retain this declaration for a period of five years after the declaration is made, penalties may apply for failure to do so.

Privacy
Taxation law authorises the ATO to collect information including personal information about the person authorised to sign the declaration. For information about your privacy go to ato.gov.au/privacy.

Electronic Funds Transfer – Direct Debit
Where you have requested an EFT direct debit some of your details will be provided to your financial institution and the Tax Office's sponsor bank to facilitate the payment of your taxation liability from your nominated account.

Tax File Number	Name of Company	Year
TFN Recorded	Giggle For Girls Pty Ltd	2023

Important
Before making this declaration please check to ensure that all income has been disclosed and the tax return is true and correct in every detail. If you are in doubt about any aspect of the tax return, place all the facts before the Tax Office. The tax law provides heavy penalties for false or misleading statements on tax returns.

Authorisation
By signing this document, I authorise my tax agent to electronically transmit this tax return.

Declaration - I declare that:

- the information provided to my registered tax agent for the preparation of this tax return, including any applicable schedules is true and correct, and
- the agent is authorised to lodge this tax return.

Signature of public officer	Date
Anne-Marie Grover (Sep 2, 2023 09:28 GMT+10)	Sep 2, 2023

PART D TAX AGENTS CERTIFICATE (SHARED FACILITIES USERS ONLY)

Client Ref	Agent Ref No.	Contact Name	Contact No.
	79362008	ROSS CASPERSON	0414 102750

Declaration - I declare that:

- I have prepared this tax return in accordance with the information supplied by the public officer.
- I have received a declaration made by the entity that the information provided to me for the preparation of this tax return is true and correct.
- I am authorised by the public officer to lodge this tax return, including any applicable schedules.

Agent's Signature	Date

Company Tax Return

110

2023

1 Jul 2022—30 Jun 2023

TFN Recorded

PART B ELECTRONIC FUNDS TRANSFER CONSENT

This declaration is to be completed when an electronic funds transfer (EFT) of a refund is requested and the tax return is being lodged through the electronic lodgment service (ELS).

This declaration must be signed by the taxpayer prior to the EFT details being transmitted to the Tax Office. If you elect for an EFT, all details below must be completed.

Important
Care should be taken when completing EFT details as the payment of any refund, including any family tax benefit, will be made to the account specified.

Agent Ref No.	BSB Number	Account Number	Account Name
79362008	084917	443148389	Giggle For Girls Pty Ltd

Authorisation
I authorise the refund to be deposited directly to the account specified.

Signature	Date
Anne-Maree Grover (Sep 2, 2023 09:28 GMT+10)	

Company Tax Return

111

2023

1 Jul 2022—30 Jun 2023

TFN Recorded

COMPANY DETAILS

Tax File Number	Australian Business Number	Final tax return
TFN Recorded	79 632 152 017	No
Company name	**Previous company name**	**In liquidation**
Giggle For Girls Pty Ltd		No
Australian Company Number	**Australian Registered Body Number (ARBN)**	

CURRENT POSTAL ADDRESS		PREVIOUS POSTAL ADDRESS		BUSINESS ADDRESS	
PO Box 487 MAIN BEACH				[redacted]	
State	**Postcode**	**State**	**Postcode**	**State**	**Postcode**
QLD	4217			[redacted]	[redacted]
Country - if not Australia		**Country - if not Australia**		**Country - if not Australia**	

YOUR BANKING INFORMATION (EFT DETAILS)

BSB Number	Account Number	Account Name
084917	443148389	Giggle For Girls Pty Ltd

TAX AGENT CONTACT DETAILS

Agent Name	Agent Ref Number	Contact Number
ROSS CASPERSON	79362008	0414 102750

PUBLIC OFFICER CONTACT DETAILS

Title	Given name	Other given names	Family name
Mrs	Anne-Maree		Grover
Suffix	**Phone area code**	**Phone number**	**Contact name**
	04	14102750	Ross Casperson

2 DESCRIPTION OF MAIN BUSINESS ACTIVITY		Internet advertising services
Industry code	B	69400

3 STATUS OF COMPANY	
Residency	C1 - Resident
Type of company	D9 - Private
Small business entity	Yes
Base rate entity	Yes

Information statement

6 CALCULATION OF TOTAL PROFIT OR LOSS		
Income		
Other gross income		$449.00
Total Other gross income	R	$449.00
Total Income	S	**$449.00**
Expenses		
Depreciation expenses	X	$999.00
All other expenses	S	**$47,768.00**
Total expenses	Q	**$48,767.00**
Total Loss (S minus Q)	T	**$48,318.00**

Reconciliation

7 RECONCILIATION TO TAXABLE INCOME OR LOSS		
Total profit or loss amount shown at T item 6	T	$48,318.00
Did you have a CGT event during the year?	G	No
Losses carried forward		
Net Capital Losses from Collectables		$0.00
Other Net Capital Losses		$0.00
Non-deductible expenses	W	$1,156.00
Subtotal		**$1,156.00**
Less		
Deduction for decline in value of depreciating assets	F	$999.00
Subtraction items subtotal		**$999.00**
Taxable/net loss	T	**$48,161.00**

Financial Information

8 FINANCIAL AND OTHER INFORMATION		
All current assets	D	$20,046.00
Total assets	E	$380,947.00

Total liabilities	H	$737,680.00
Total salary and wage expenses	D	$40,130.00
Code		A
Payments to associated persons	Q	$40,130.00

Other Information

13 LOSSES INFORMATION		
Tax losses carried forward to later income years	U	$373,989.00
14 PERSONAL SERVICES INCOME		
Does your income include an individual's personal services income?	N	No
25 REPORTABLE TAX POSITION		
Are you required to lodge a reportable tax position schedule?	B	No
26 DID YOU HAVE ANY TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES?		
Such transactions or dealings include the transfer of tangible or intangible property and any new or existing financial arrangements	X	No
27 WAS THE AGGREGATE AMOUNT OF THE TRANSACTIONS OR DEALINGS WITH INTERNATIONAL RELATED PARTIES		
Including the value of property transferred or the balance outstanding on any loans greater than $2 million?	Y	No
28 OVERSEAS INTERESTS		
Did you have overseas branch operations or a direct or indirect interest in a foreign trust, foreign company, controlled foreign entity or transferor trust?	Z	No
29 THIN CAPITALISATION		
Did the thin capitalisation provisions apply?	O	No
30 TRANSACTIONS WITH SPECIFIED COUNTRIES		
Did you directly or indirectly send to, or receive from, one of the countries specified in the instructions, any funds or property OR Do you have the ability or expectation to control, whether directly or indirectly, the disposition of any funds, property, assets or investments located in, or located elsewhere but controlled or managed from one of those countries?	I	No

Calculation statement

Taxable or net income		A	
Tax on taxable or net income		T1	$0.00
Gross tax	(T1 plus M)	B	$0.00
Non-refundable non-carry forward tax offsets		C	$0.00
Subtotal 1	(B less C - cannot be less than zero)	T2	$0.00
Non-refundable carry forward tax offsets		D	
Subtotal 2	(T2 less D - cannot be less than zero)	T3	$0.00
Refundable tax offsets		E	
Subtotal 3	(T3 less E - cannot be less than zero)	T4	$0.00
Franking deficit tax offset		F	
Tax Payable	(T4 less F - cannot be less than zero)	T5	$0.00
Section 102AAM interest charge		G	
Eligible credits		H	
Credit for tax withheld – foreign resident withholding (excluding capital gains)	H2		
Credit for tax withheld where ABN is not quoted	H3		
Tax withheld from interest or investments	H4		
Credit for TFN amounts withheld from payments from closely held trusts	H5		
Other credits	H7		
Credit for foreign resident capital gains withholding amounts	H8		
Tax offset refunds (Remainder of refundable tax offsets)		I	$0.00
PAYG instalments raised		K	
Amount payable/refundable		S	
Hours taken to prepare and complete this return			

Losses schedule

Part A Losses carried forward to the 2023–2024 income year

1 TAX LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2022–2023	B	$48,161.00
2021–2022	C	$33,923.00
2020–2021	D	$13,932.00
2019–2020	E	$276,741.00
2018–2019	F	$1,232.00
2017–2018 and earlier years	G	
Total	U	**$373,989.00**

2 NET CAPITAL LOSSES CARRIED FORWARD TO LATER INCOME YEARS		
2022–2023	H	
2021–2022	I	
2020–2021	J	
2019–2020	K	
2018–2019	L	
2017–2018 and earlier years	M	
Total	V	

Part B Ownership and same business test

1 WHETHER CONTINUITY OF MAJORITY OWNERSHIP TEST PASSED		
2022–2023	A	
2021–2022	B	
2020–2021	C	
2019–2020	D	
2018–2019	E	
2017–2018 and earlier years	F	

2 AMOUNT OF LOSSES DEDUCTED FOR WHICH THE CONTINUITY OF MAJORITY OWNERSHIP TEST IS NOT PASSED BUT THE BUSINESS CONTINUITY TEST IS SATISFIED – EXCLUDES FILM LOSSES		
Tax losses	G	
Net capital losses	H	

3 LOSSES CARRIED FORWARD FOR WHICH THE BUSINESS CONTINUITY TEST MUST BE SATISFIED BEFORE THEY CAN BE DEDUCTED IN LATER YEARS – EXCLUDES FILM LOSSES		
Tax losses	I	
Net capital losses	J	

4 DO CURRENT YEAR LOSS PROVISIONS APPLY?		
Is the company required to calculate its taxable income or tax loss for the year under Subdivision 165-B or its net capital gain or net capital loss for the year under Subdivision 165-CB of the *Income Tax Assessment Act 1997* (ITAA 1997)?	K	

Part C Unrealised losses		
Has a changeover time occurred in relation to the company after 1.00pm by legal time in the Australian Capital Territory on 11 November 1999?	L	No
At the changeover time did the company satisfy the maximum net asset value test under section 152-15 of ITAA 1997?	M	
If you selected No at M, has the company determined it had an unrealised net loss at the changeover time?	N	
If you selected Yes at N, what was the amount of unrealised net loss calculated under section 165-115E of ITAA 1997?	O	

Part D Life insurance companies		
Complying superannuation class tax losses carried forward to later income years	P	
Complying superannuation net capital losses carried forward to later income years	Q	

Part E Controlled foreign company losses		
Current year CFC losses	M	
CFC losses deducted	N	
CFC losses carried forward	O	

Part F Tax losses reconciliation statement		
Balance of tax losses brought forward from the prior income year	A	$325,828.00
ADD Uplift of tax losses of designated infrastructure project entities	B	
SUBTRACT Net forgiven amount of debt	C	
ADD Tax loss incurred (if any) during current year	D	$48,161.00
ADD Tax loss amount from conversion of excess franking offsets	E	
SUBTRACT Net exempt income	F	
SUBTRACT Tax losses forgone	G	
SUBTRACT Tax losses deducted	H	
SUBTRACT Tax losses transferred out under Subdivision 170-A (only for transfers involving a foreign bank branch or a PE of a foreign financial entity)	I	
Total tax losses carried forward to later income years	J	**$373,989.00**

Worksheets

7W **NON-DEDUCTIBLE EXPENSES**

Description	Amount
Entertainment	$157.00
Depreciation	$999.00
Total	**$1,156.00**

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Company - Annual Accounts

Giggle For Girls Pty Ltd
For the year ended 30 June 2023

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Contents

3 Profit and Loss

4 Balance Sheet

5 Notes to the Financial Statements

8 Depreciation Schedule

9 Directors Declaration

10 Compilation Report

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Profit and Loss

Giggle For Girls Pty Ltd
For the year ended 30 June 2023

	2023	2022
Income		
Trading Profit		
Sale of Goods	449	12,673
Total Trading Profit	**449**	**12,673**
Total Income	**449**	**12,673**
Other Income		
Other Revenue	142,902	-
Total Other Income	**142,902**	**-**
Total Income	**143,350**	**12,673**
Expenses		
Accounting Fees	400	2,750
Advertising & Promotion	100	4,097
Bank Fees	266	662
Computer Expenses	1,451	1,531
Depreciation	999	1,428
Entertainment	157	1,507
Filing Fees	290	276
Legal Expenses	120,000	-
Office Expenses	320	276
Telephone & Internet	2,122	3,296
Travel and Accommodation	2,533	-
Wages & Salaries	40,130	32,279
Total Expenses	**168,767**	**48,103**
Profit/(Loss) before Taxation	**(25,417)**	**(35,430)**
Net Profit After Tax	**(25,417)**	**(35,430)**
Net Profit After Distributions/Dividends Paid	**(25,417)**	**(35,430)**

Anne-Marie Grover (Sep 2, 2023 09:28 GMT+10)

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Balance Sheet

Giggle For Girls Pty Ltd
As at 30 June 2023

	NOTES	30 JUN 2023	30 JUN 2022
Assets			
Current Assets			
Bank Accounts			
Bank Account		5	1,725
Cash at Bank - Funding		18,582	-
Total Bank Accounts		**18,587**	**1,725**
GST		1,359	1,021
Cash on Hand		100	100
Total Current Assets		**20,046**	**2,846**
Non-Current Assets			
Property, Plant and Equipment	3	2,332	3,331
Intangibles			
App Development Costs		332,339	324,197
Preliminary Expenses		26,230	26,230
Total Intangibles		**358,569**	**350,427**
Loans to Associates		-	35,371
Total Non-Current Assets		**360,901**	**389,129**
Total Assets		**380,947**	**391,975**
Liabilities			
Current Liabilities			
Superannuation Payable		4,020	4,020
Trade Creditors		100,820	101,001
Total Current Liabilities		**104,840**	**105,021**
Non-Current Liabilities			
Loan - WADD Holdings Pty Ltd		632,840	618,270
Total Non-Current Liabilities		**632,840**	**618,270**
Total Liabilities		**737,680**	**723,291**
Net Assets		**(356,733)**	**(331,316)**
Equity			
Retained Earnings		(356,833)	(331,416)
Share Capital			
Issued Capital		100	100
Total Share Capital		**100**	**100**
Total Equity		**(356,733)**	**(331,316)**

Anne-Marie Grover (Sep 2, 2023 09:28 GMT+10)

The accompanying notes form part of these financial statements. These statements should be read in conjunction with the attached compilation report.

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Notes to the Financial Statements

Giggle For Girls Pty Ltd
For the year ended 30 June 2023

1. Statement of Significant Accounting Policies

The directors have determined that the company is not a reporting entity and accordingly, this financial report is a special purpose report prepared for the sole purpose of distributing a financial report to members and must not be used for any other purpose. The directors have determined that the accounting policies adopted are appropriate to meet the needs of the members.

The financial report has been prepared on an accrual basis and under the historical cost convention, except for certain assets, which, as noted, have been written down to fair value as a result of impairment. Unless otherwise stated, the accounting policies adopted are consistent with those of the prior year.

The accounting policies that have been adopted in the preparation of the statements are as follows:

Income Tax

The income tax expense for the year comprises current income tax expense. The company does not apply deferred tax. Current income tax expense charged to the profit or loss is the tax payable on taxable income calculated using applicable income tax rates enacted, or substantially enacted, as at 30 June 2023. Current tax liabilities are therefore measured at the amounts expected to be paid to the relevant taxation authority.

Property, Plant and Equipment

Property, plant and equipment is initially recorded at the cost of acquisition or fair value less, if applicable, any accumulated depreciation and impairment losses. Plant and equipment that has been contributed at no cost, or for nominal cost, is valued and recognised at the fair value of the asset at the date it is acquired. The plant and equipment is reviewed annually by directors to ensure that the carrying amount is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the utilisation of the assets and the subsequent disposal. The expected net cash flows have been discounted to their present values in estimating recoverable amounts.

Freehold land and buildings are measured at their fair value, based on periodic, but at least triennial, valuations by independent external valuers, less subsequent depreciation for buildings.

Increases in the carrying amount of land and buildings arising on revaluation are credited in equity to a revaluation surplus. Decreases against previous increases of the same asset are charged against fair value reserves in equity. All other decreases are charged to profit or loss.

Any accumulated depreciation at the date of revaluation is offset against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset.

Intangibles

Goodwill is recognised as the excess of the purchase price for a business acquired over the fair value of the net assets at the date of acquisition. Goodwill is assessed for impairment annually and is carried at cost less accumulated impairment losses.

Trade and Other Receivables

Trade receivables and other receivables, including distributions receivable, are recognised at the nominal transaction value without taking into account the time value of money. If required a provision for doubtful debt has been created.

Trade and Other Payables

Trade and other payables represent the liabilities for goods and services received by the company that remain unpaid at 30 June 2023. Trade payables are recognised at their transaction price. They are subject to normal credit terms and do not bear interest.

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Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held on call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts.

Revenue Recognition

Revenue from the sale of goods is recognised upon the delivery of goods to customers. Revenue from the rendering of services is recognised upon the delivery of the services to customers. Revenue from commissions is recognised upon delivery of services to customers. Revenue from interest is recognised using the effective interest rate method. Revenue from dividends is recognised when the entity has a right to receive the dividend.

All revenue is stated net of the amount of goods and services tax (GST).

Goods and Services Tax

Transactions are recognised net of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with other receivables or payables in the balance sheet.

	2023	2022
2. Receivables		
Non Current		
Loans to Associates	-	35,371
Total Non Current	**-**	**35,371**
Total Receivables	**-**	**35,371**

	2023	2022
3. Property Plant and Equipment		
Plant and Equipment		
Plant and Equipment at Cost	9,404	9,404
Accumulated Depreciation of Plant and Equipment	(7,072)	(6,073)
Total Plant and Equipment	**2,332**	**3,331**
Total Property Plant and Equipment	**2,332**	**3,331**

	2023	2022
4. Intangibles		
Other Intangible Assets		
App Development Costs	332,339	324,197
Total Other Intangible Assets	**332,339**	**324,197**
Total Intangibles	**332,339**	**324,197**

	2023	2022
5. Payables		
Current		

These notes should be read in conjunction with the attached compilation report.

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Superannuation Payable	4,020	4,020
Trade Creditors	100,820	101,001
Total Current	**104,840**	**105,021**
Total Payables	**104,840**	**105,021**

6. Financial Liabilities

	2023	2022
Non Current		
Unsecured		
Loan - WADD Holdings Pty Ltd	632,840	618,270
Total Unsecured	**632,840**	**618,270**
Total Non Current	**632,840**	**618,270**
Total Financial Liabilities	**632,840**	**618,270**

These notes should be read in conjunction with the attached compilation report.

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Depreciation Schedule

Giggle For Girls Pty Ltd

For the year ended 30 June 2023

NAME	COST	OPENING VALUE	PURCHASES	DISPOSALS	DEPRECIATION	CLOSING VALUE
Office Equipment						
Apple Laptops	9,404	3,331	-	-	999	2,332
Total Office Equipment	**9,404**	**3,331**	**-**	**-**	**999**	**2,332**
Total	**9,404**	**3,331**	**-**	**-**	**999**	**2,332**

The accompanying notes form part of these financial statements. These statements should be read in conjunction with the attached compilation report.

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Directors Declaration

Giggle For Girls Pty Ltd
For the year ended 30 June 2023

The directors have determined that the company is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

The directors of the company declare that:

1. The financial statements and notes, present fairly the company's financial position as at 30 June 2023 and its performance for the year ended on that date in accordance with the accounting policies described in Note 1 to the financial statements; and
2. In the directors' opinion there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Director: A. Grover _____ Anne-Marie Grover (Sep 2, 2023 09:28 GMT+10)

Director: S. Grover _____

Sign date: Sep 2, 2023

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Compilation Report

Giggle For Girls Pty Ltd
For the year ended 30 June 2023

Compilation report to Giggle For Girls Pty Ltd

We have compiled the accompanying special purpose financial statements of Giggle For Girls Pty Ltd, which comprise the balance sheet as at 30 June 2023, the income statement, the statement of cash flows, a summary of significant accounting policies and other explanatory notes. The specific purpose for which the special purpose financial statements have been prepared is set out in Note 1.

The Responsibility of the Directors

The directors of Giggle For Girls Pty Ltd are solely responsible for the information contained in the special purpose financial statements, the reliability, accuracy and completeness of the information and for the determination that the basis of accounting used is appropriate to meet their needs and for the purpose that financial statements were prepared.

Our Responsibility

On the basis of information provided by the directors we have compiled the accompanying special purpose financial statements in accordance with the basis of accounting as described in Note 1 to the financial statements and APES 315 *Compilation of Financial Information*.

We have applied our expertise in accounting and financial reporting to compile these financial statements in accordance with the basis of accounting described in Note 1 to the financial statements. We have complied with the relevant ethical requirements of APES 110 *Code of Ethics for Professional Accountants*.

Assurance Disclaimer

Since a compilation engagement is not an assurance engagement, we are not required to verify the reliability, accuracy or completeness of the information provided to us by management to compile these financial statements. Accordingly, we do not express an audit opinion or a review conclusion on these financial statements.

The special purpose financial statements were compiled exclusively for the benefit of the directors who are responsible for the reliability, accuracy and completeness of the information used to compile them. We do not accept responsibility for the contents of the special purpose financial statements.

Independence

We are independent of Giggle For Girls Pty Ltd.

Ross Casperson CPA | Layter & Lach Accountants

Dated: Sep 4, 2023

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Payment Summary Annual Report

2023

1 Jul 2022—30 Jun 2023

TFN Recorded

PAYER DETAILS

Name	ABN/WPN	ABN Branch
Giggle For Girls Pty Ltd	79 632 152 017	2

ADDRESS DETAILS

[redacted]

State	Country	Postcode
[redacted]	Australia	[redacted]

CONTACT DETAILS

Contact name	Day time contact number	Email address
Anne-Maree Grover	[redacted]	am@giggle-girl.com

Payment summaries issued

Payment summary type	Total summaries issued	Total gross / taxable payments	Total tax withheld
Individual non-business (includes salaries or wage paid to employees)	2	$40,130	$0
Employment termination payment	0		
Superannuation lump sum	0		
Superannuation income stream	0		
Business and personal services income	0		

Declaration

Privacy - For information about your privacy, go to **ato.gov.au/privacy**

Declaration - I declare that the information given on this form is complete and correct.

Signature of authorised person	Date
Anne-Maree Grover (Sep 2, 2023 09:28 GMT+10)	

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

PAYG payment summary - individual non-business

Payment summary for year ending 30 June 2023

Payee details

Anne-Maree Grover

[redacted]

NOTICE TO PAYEE

If this payment summary shows an amount in the total tax withheld box, you must lodge a tax return. If no tax was withheld, you may still have to lodge a tax return.

For more information about this payment summary or lodging your tax return, you can:

- visit **ato.gov.au**
- phone **13 28 61** between 8.00am and 6.00pm, Monday to Friday.

	Day/Month/Year		Day/Month/Year
Period of payment	01 Jul 2022	to	30 Jun 2023

Payee's tax file number 483128510

TOTAL TAX WITHHELD $ 0

			Type			Type
Gross payments	$	20065	S	A $	0	
CDEP payments	$			B $	0	
Reportable fringe benefits amount FBT year 1 April to 31 March	$			D $		
Is the employer exempt from FBT under section 57A of the FBTAA 1986?						
Reportable employer superannuation contributions	$			E $		
Total allowances	$		Total allowances are not included in Gross payments above. This amount needs to be shown separately in your tax return.			

Payer details

Payer's ABN or withholding payer number 79 632 152 017 Branch number 2

Payer's name Giggle For Girls Pty Ltd

Privacy - For information about your privacy, go to **ato.gov.au/privacy**

Signature of authorised person A. Grover Date 30 August 2023

PAYG payment summary - individual non-business

Payment summary for year ending 30 June 2023

Payee details

Sally Grover

[redacted]

NOTICE TO PAYEE

If this payment summary shows an amount in the total tax withheld box, you must lodge a tax return. If no tax was withheld, you may still have to lodge a tax return.

For more information about this payment summary or lodging your tax return, you can:

- visit **ato.gov.au**
- phone **13 28 61** between 8.00am and 6.00pm, Monday to Friday.

	Day/Month/Year		Day/Month/Year
Period of payment	01 Jul 2022	to	30 Jun 2023

Payee's tax file number 344105229

TOTAL TAX WITHHELD $ 0

			Type			Type
Gross payments	$	20065	S	A $	0	
CDEP payments	$			B $	0	
Reportable fringe benefits amount FBT year 1 April to 31 March	$			D $		
Reportable employer superannuation contributions	$			E $		
Total allowances	$					

Is the employer exempt from FBT under section 57A of the FBTAA 1986?

Total allowances are not included in Gross payments above. This amount needs to be shown separately in your tax return.

Payer details

Payer's ABN or withholding payer number 79 632 152 017 Branch number 2

Payer's name Giggle For Girls Pty Ltd

Privacy - For information about your privacy, go to **ato.gov.au/privacy**

Signature of authorised person A. Grover Date 30 August 2023

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

Giggle For Girls Pty Ltd - Tax 2023

Final Audit Report 2023-09-03

Created:	2023-08-30
By:	Ross Casperson (ross@layterlach.com.au)
Status:	Signed
Transaction ID:	CBJCHBCAABAAkKnUwor7rNfteOtas_W20Wf-VO8NIOIA

"Giggle For Girls Pty Ltd - Tax 2023" History

Document created by Ross Casperson (ross@layterlach.com.au)
2023-08-30 - 3:50:39 AM GMT

Document emailed to am@giggle-girl.com for signature
2023-08-30 - 3:51:55 AM GMT

Email viewed by am@giggle-girl.com
2023-08-30 - 6:06:16 AM GMT

Signer am@giggle-girl.com entered name at signing as Anne-Maree Grover
2023-09-01 - 11:28:39 PM GMT

Document e-signed by Anne-Maree Grover (am@giggle-girl.com)
Signature Date: 2023-09-01 - 11:28:41 PM GMT - Time Source: server

Document emailed to Ross Casperson (ross@layterlach.com.au) for signature
2023-09-01 - 11:28:42 PM GMT

Email viewed by Ross Casperson (ross@layterlach.com.au)
2023-09-03 - 11:54:34 PM GMT

Document e-signed by Ross Casperson (ross@layterlach.com.au)
Signature Date: 2023-09-03 - 11:54:44 PM GMT - Time Source: server

Agreement completed.
2023-09-03 - 11:54:44 PM GMT

Adobe Acrobat Sign

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-6"

This is the Annexure marked "**GIGGLE-6**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Deves

Solicitor for the Respondents

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

InfoTrack
1800 738 524

ASIC
Current & Historical Organisation Extract

ASIC Data Extracted 23/10/2023 at 18:45

This extract contains information derived from the AustralianSecurities and Investment Commission's (ASIC) database undersection 1274A of the Corporations Act 2001.Please advise ASIC of any error or omission which you may identify.

- 632 151 154 WADD HOLDINGS PTY LTD -

		Document No.
ACN (Australian Company Number):	632 151 154	
ABN:	66 632 151 154	
Current Name:	WADD HOLDINGS PTY LTD	
Registered in:	Queensland	
Registration Date:	08/03/2019	
Review Date:	08/03/2024	
Company Bounded By:		

- Current Organisation Details -

Name:	WADD HOLDINGS PTY LTD
Name Start Date:	08/03/2019
Status:	Registered
Type:	Australian Proprietary Company
Class:	Limited By Shares
Sub Class:	Proprietary Company

- Company Addresses -

- Registered Office 7ECC79122
Address: [redacted]
Start Date: 15/04/2023

- Previous Registered Office 7ECC79119
Address: [redacted]
Start Date: 15/04/2023
Cease Date: 15/04/2023

- Previous Registered Office 7EBL84820
Address: [redacted]
Start Date: 07/10/2021
Cease Date: 14/04/2023

- Previous Registered Office 0EHS02945
Address: [redacted]
Start Date: 08/03/2019
Cease Date: 06/10/2021

- Principal Place of Business 7ECC79122
Address: [redacted]
Start Date: 08/04/2023

- Previous Principal Place of Business 7EBL84820
Address: [redacted]
Start Date: 28/09/2021
Cease Date: 07/04/2023

- Previous Principal Place of Business 7ECC79119
Address: [redacted]
Start Date: 08/04/2023
Cease Date: 07/04/2023

- Previous Principal Place of Business 0EHS02945
Address: [redacted]
Start Date: 08/03/2019
Cease Date: 27/09/2021

- Company Officers -

Note:
A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.
* Check documents listed under ASIC Documents Received for recent changes.

Director

Name: ANNE-MAREE GROVER 0EHS02945
Address: [redacted]
Birth Details:
Appointment Date: 08/03/2019
Cease Date: //

Name: SALLY BREE GROVER 0EHS02945
Address: [redacted]
Birth Details:
Appointment Date: 08/03/2019
Cease Date: //

- Share Structure -

Current

Class: ORDINARY 030673511
Number of Shares Issued: 100000

Total Amount Paid / Taken to be Paid:	$1,000.00
Total Amount Due and Payable:	$0.00

Note:
For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

- Share/Interest Holding -

Current

- Holding -

Class:	ORD	**Number Held:**	60800	9EAA34755
Beneficially Owned:	Yes	**Fully Paid:**	Yes	

- Members -

Name:	ANNE-MAREE GROVER
Address:	[redacted]
Joint Holding:	No

- Holding -

Class:	ORD	**Number Held:**	34200	9EAA34755
Beneficially Owned:	Yes	**Fully Paid:**	Yes	

- Members -

Name:	SALLY BREE GROVER
Address:	[redacted]
Joint Holding:	No

- Holding -

Class:	ORD	**Number Held:**	5000	9EAA34755
Beneficially Owned:	Yes	**Fully Paid:**	Yes	

- Members -

Name:	WILLIAM CHARLES ARTHUR SHIELDS
Address:	[redacted]
Joint Holding:	No

Ceased/Former

- Holding -

Class:	ORD	**Number Held:**	20000	030673511
Beneficially Owned:	No	**Fully Paid:**	Yes	

- Members -

Name:	FIRE FRIED PTY LTD
ACN:	150 146 339
Address:	705 GLADES DRIVE ROBINA QLD 4226
Joint Holding:	No

- External Administration Documents -

There are no external administration documents held for this organisation.

- Charges -

There are no charges held for this organisation.

Notes:
On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.
At that time ASIC transferred all details of current charges to the PPS Registrar.
ASIC can only provide details of satisfied charges prior to that date.
Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, www.ppsr.gov.au.
InfoTrack may cap documents for on-file searches to 250.

- Document List -

Notes:
* Documents already listed under Registered Charges are not repeated here.
* Data from Documents with no Date Processed are not included in this Extract.
* Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
* The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.
* In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
484	08/04/2023	08/04/2023	2	08/04/2023	7ECC79122
484	Change to Company Details				
484B	Change of Registered Address				
484C	Change of Principal Place of Business (Address)				
484	08/04/2023	08/04/2023	2	08/04/2023	7ECC79119
484	Change to Company Details				
484B	Change of Registered Address				
484C	Change of Principal Place of Business (Address)				
484	30/09/2021	30/09/2021	2	30/09/2021	7EBL84820
484	Change to Company Details				
484B	Change of Registered Address				
484C	Change of Principal Place of Business (Address)				
484	30/06/2020	30/06/2020	3	30/06/2020	9EAA34755

484N	Change to Company Details Changes to (Members) Share Holdings				
2205	07/08/2019	12/08/2019	8	22/07/2019	030673511
2205B	Notification of Resolution Relating to Shares Convert Shares Into Larger or Smaller Number				
201	08/03/2019	08/03/2019	3	08/03/2019	0EHS02945
201C	Application For Registration as a Proprietary Company				

- Company Contact Addresses -

*** End of Document ***

DocuSign Envelope ID: E93EFD1C-FEC8-4234-8611-8B0420601395

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "GIGGLE-7"

This is the Annexure marked "**GIGGLE-7**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewar

Solicitor for the Respondents

by Pickles dog - Feb 9, 2021

A much-needed space just for women

Excellent ★★★★★
by spiltkooks - Jun 11, 2020

Excellent platform. Brilliant idea. This will change how women connect.

Brilliant for girls! ★★★★★
by TwinMamaMarly - Feb 3, 2021

A much needed safe space on social media just for girls and women. Thank you to the founder for all that she does

Misogyny-free space for women ★★★★★
by sparksnmorse - Jun 3, 2021

A great space for women where one can speak with other women freely and without fear of any misogynistic slurs, abuse or attacks. It is wonderful to have a space to be open and vulnerable on any number of things from the sensitive to the light-hearted without fear of male shenanigans

Every community entitled to create spaces for itself ★★★★★
by b_nnonymous - Apr 27, 2022

The bizarre hounding of the CEO for creating an app for females is a sign of our age of misogyny. EVERYONE should feel free to create spaces to connect with who they want to. Go find the space for you! And go Sall, you're a trailblazer

by Charmsley - Jun 1, 2023

Trans people are so mean and aggressive. im so glad this app is safe for real women. I cant believe that only negative reviews are only from trans ppl, you are not woman, stay out of our business and stop trying to take what's not yours, don't be jealous u don't get ur period lmao what's ur excuse for being a bia!@# though

A safe, private space for women! Yay! ★★★★★
by akaberserella - Mar 4, 2023

Finally somewhere women can hang out without men encroaching on our space! So many uses for this app. I love it. So proud of a fellow Aussie for creating it. Tell your adult human female friends!

Safe Space for Women & Girls ★★★★★
by Amanda467 - Jan 14, 2022

I've had Giggle for the last three months. There are no creeps popping up randomly in your DMs or men sending unwanted photos. You can discuss topics that other platforms ban you for, again without fear of harassment. Ignore the radical activists giving it one star reviews. If you're a woman who's sick of the harassment and censorship elsewhere online, give Giggle a go.

Giggle is a lot of fun! ★★★★★
by Nina661 - Jan 26, 2022

Great space to learn about current events, hobbies, passions and have a decent giggle with like minded women - highly recommend.

Great Female Community ★★★★★
by Real_Reviewer - Apr 15, 2022

Love the measured and intellectual conversations on Giggle!

Every community entitled to create spaces for itself ★★★★★

by b_nnonymous - Apr 27, 2022

The bizarre hounding of the CEO for creating an app for females is a sign of our age of misogyny. EVERYONE should feel free to create spaces to connect with who they want to. Go find the space for you! And go Sall, you're a trailblazer

Version 1.13 Australia 0 of 1 viewers found this review helpful Report a Concern

Great app ★★★★★

by Atticed - Apr 3, 2022

Cancel culture vultures coming on here downloading the app to deliberately rate it 1 star. The certain people leaving 1 stars cant use the app, they have no experience on it to rate it 1 star, as a result their reviews are false and should be removed. Its an amazing space and im happy to meet likeminded people on it, nothing to do with race as well for people saying the app is racist

Version 1.13 Australia 1 of 1 viewers found this review helpful Report a Concern

Fantastic app ★★★★★

by Sarah Terkes - Dec 22, 2021

This app is truly excellent. Highly recommend. Ignore the negative reviews from men who are angry that women dare to try to have their own app.

Version 1.13 Australia 2 of 4 viewers found this review helpful Report a Concern

Misogyny-free space for women ★★★★★

by sparksnmorse - Jun 3, 2021

A great space for women where one can speak with other women freely and without fear of any misogynistic slurs, abuse or attacks. It is wonderful to have a space to be open and vulnerable on any number of things from the sensitive to the light-hearted without fear of male shenanigans

Version 1.13 Australia 1 of 3 viewers found this review helpful Report a Concern

Great app ★★★★★

by laramber - Feb 9, 2021

Love that is a safe space for girls. Grateful

Version 1.3.1 Australia 1 of 1 viewers found this review helpful Report a Concern

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	23/10/2023 9:40:51 PM AEDT
Date Accepted for Filing:	23/10/2023 9:40:58 PM AEDT
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)
Affidavit

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another
Respondents

Affidavit of: Sall Grover
Address: [redacted]
Occupation: Chief Executive Officer
Date: 23 October 2022

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Second Respondent in support of Respondents' defence proceedings affirmed on 22 October 2023.	1	1
2	Annexure "**SG-1**", being copy of current and historical ASIC company search for Giggle	3	25
3	Annexure "**SG-2**", being copy of webpages of Kairos	10	30
4	Annexure "**SG-3**", being copy of online reviews	26	37

Filed on behalf of (name & role of party) Sall Grover, Second Respondent
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
[signature]
Deponent

K Deves
Witness

Document number	Details	Paragraph	Page
5	Annexure "**SG-4**", being copy of public statements that transmen are welcome on the App	54	42
6	Annexure "**SG-5**", being copy of women's reviews of the Giggle App	62	46
7	Annexure "**SG-6**", being copy of online articles about Giggle	63	49
8	Annexure "**SG-7**", being copy of screenshots of the Applicant's profile at the time the Australian Human Rights Commission complaint was made	76	67
9	Annexure "**SG-8**", being copy of article "TERFs challenge reporter's gender at NCAA Women's Championship" Los Angeles Blade 20 March 2022	98	70

I, Sall Grover, affirm:

1. I am the Second Respondent. I am the Chief Executive Officer of the First Respondent (**Giggle**). I am authorised to make this affidavit on its behalf. In making this affidavit, where necessary, I have had regard to the books and records of the First Respondent where available I have also made this affidavit from my own knowledge.

2. Exhibited to me at the time of affirming this affidavit is a bundle of documents. When I refer to pages in that bundle, I will refer to them as pages x to x of Annexure **SG-X.**

3. Giggle was the provider of an online social media app called "Giggle" (**the App**), which was available to females all around the world (ex. the PRC) to connect with other females for a variety of female reasons and purposes. Appearing at pages 25 to 29 of **SG-1** is a current and historical ASIC company search for Giggle.

The idea for the App

4. After the #MeToo movement exploded, my female-friends and I shared our experiences of sexual assault and harassment. We did not know it was happening to each other at the time. I remember a fleeting thought of, "some of this could have been avoided if women were able to comfortably connect away from men."

DocuSigned by:
JA8C9A769EA7453
Deponent

K Deves
Witness

5. In or about August 2018, I was in therapy for trauma treatment due to sexual abuse I had experienced in Hollywood, during my time working there as a screenwriter. My therapist said to me:

   "You need a really strong support network in your life".

   This really resonated with me.

6. My Mum and I would talk about what I was going through and learning in therapy. I told my Mum about my experience of looking for a room to rent in New York City in 2016/2017 and how I was sexually harassed by men on platforms such as roommates.com and various Facebook roommates' pages during the process.

7. My Mum said, "We should create a roommate App exclusively for women."

8. My Dad did research about what it would entail to create an App from both the technical and start-up perspectives. He spent the remainder of 2018 teaching himself how to use XD, a computer program that could create a demo of the App and eventually develop an App.

9. A key feature of the App was to ensure it was for women only in order to provide a safe space for women on the internet to search for roommates, employment opportunities, network, commune and engage in discussion.

10. My Dad discovered Kairos (https://www.kairos.com/), and API AI facial recognition company when he was doing research on creating an App. Kairos provided "gender detection" as described on their website "detects gender of each face found, male or female". Appearing at pages 30 to 36 of **SG-2** are the webpages of Kairos I have accessed in the course of making my affidavit.

11. I believed the discovery of Kairos meant the endeavour to create an App exclusively for women would be possible, at the time I believed it was a perfect way to do it. I did not believe the process AI facial recognition was controversial because it was the digital equivalent of what human beings do every day in perceiving sex, in particular male sex.

12. At this time, I had absolutely no idea that males could be considered to be women. I had not heard or read anything in the media or on social media about this issue. It had never occurred to me to check if men were considered women in law.

DocuSigned by:
3A9C9A789EA7453
Deponent

K Deves
Witness

13. In the 10 years prior, I had been living and working in the United States, where "gender" is commonly used as a polite synonym for biological sex. I did not consider the use of the word "gender" in the context of its "gender detection feature" to mean anything other than the detection of biological sex.

14. In or about November or December 2018, I started drawing designs of what Giggle would look like and outlining the user experience.

15. I would work with my Dad as he created them as a demo in XD. This process took approximately 3 months. During this time, we continued to develop the overall idea of the Giggle user experience and we decided to add other features, such as women connecting for emotional support, freelance work, general friendship, and much more. Our vision was to create a platform that was a strong female support network for many different areas of life.

My Vision for the App

16. The vision was to create a little corner of the Internet where women from all over the world could have a refuge away from men. It could be for serious reasons, very superficial reasons, or very practical reasons. It would be a place without harassment, "mansplaining", "dick pics", stalking, and aggression, and other male patterned online behaviour. A place to vent and get advice from other women and find out what was happening in the real world in a female-only environment.

17. During development, I would often say, "I want to ensure that women can have access to a female support network in the palm of their hand whenever they need it" and that is essentially what we were creating. The vision was an online women's refuge, so to speak. The vision was to have a positive impact on women's daily online and social media experience.

Coding the App

18. The concept and user experience for the App were solely my ideas. Skilled coding professionals brought those ideas to life.

19. I was not involved in coding the App. I have no coding skills or ability. Professional coders based in the Philippines were contracted to do the job. Through learning on

the job, however, I have developed a very rudimentary knowledge of tech jargon and workings.

20. My Dad has knowledge in the coding field, he self-taught in the 1990s and can speak the language. He was the project manager for this component of the App development. He directed and managed the coders.

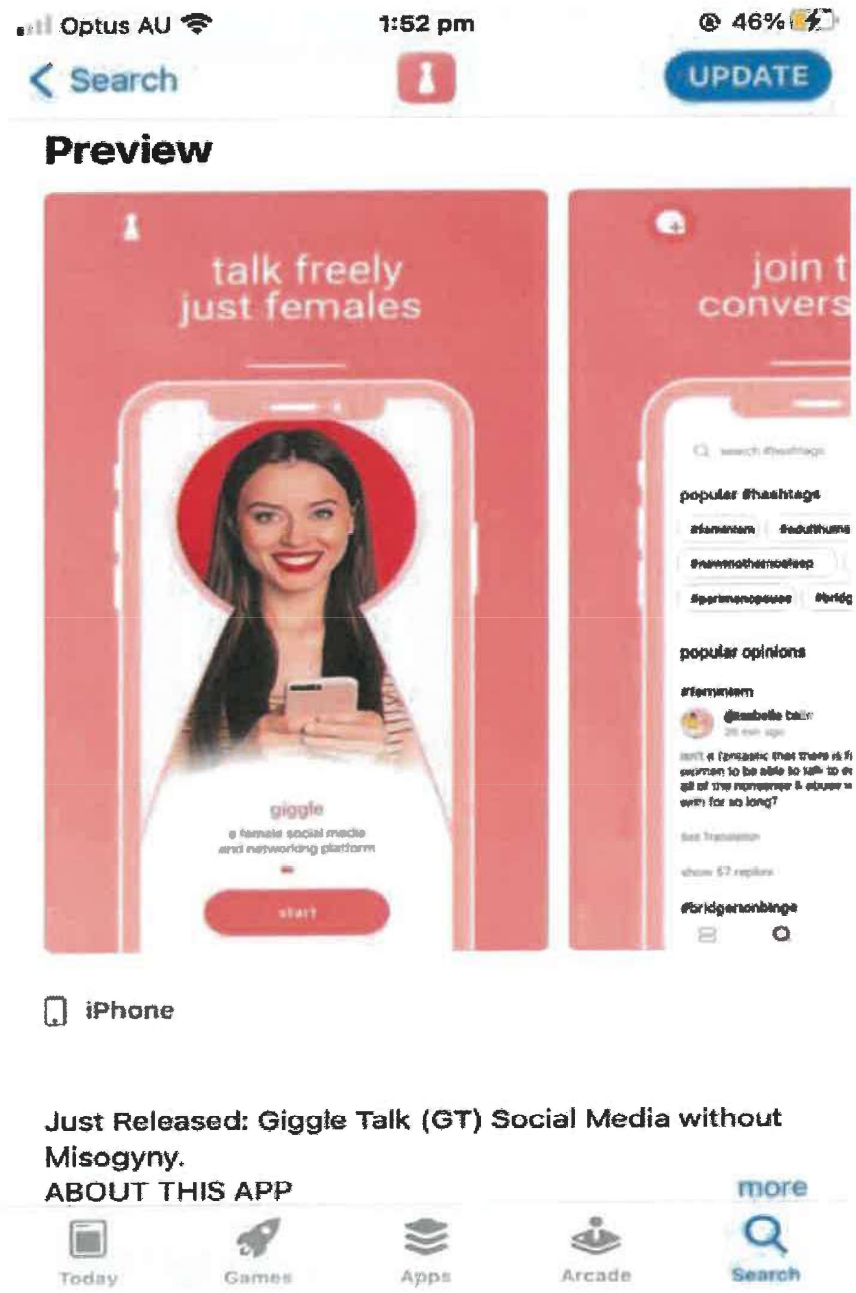
21. By February 2020, the beta version of Giggle was on the App Store and Google Play. We were doing testing on User experience, ironing out bugs and testing security.

22. Apple and Google had both approved and accepted our application to their stores including the description where it was clear that this was an App for females only.

23. We intended to test Kairos "Gender Detection", but we had not implemented any algorithm yet.

24. During the testing phase, the App was only known to a small selection of women.

25. Below are images which show how the App presented on the Google Store.

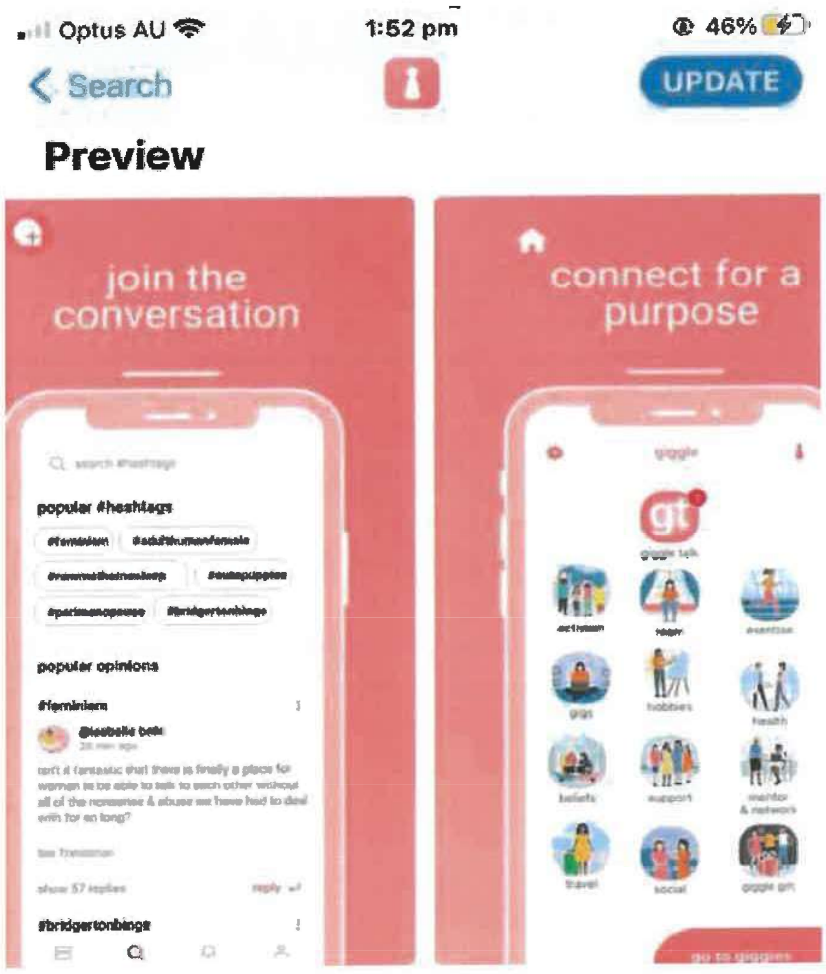


DocuSigned by:
3ABC9A780EA7453

Deponent

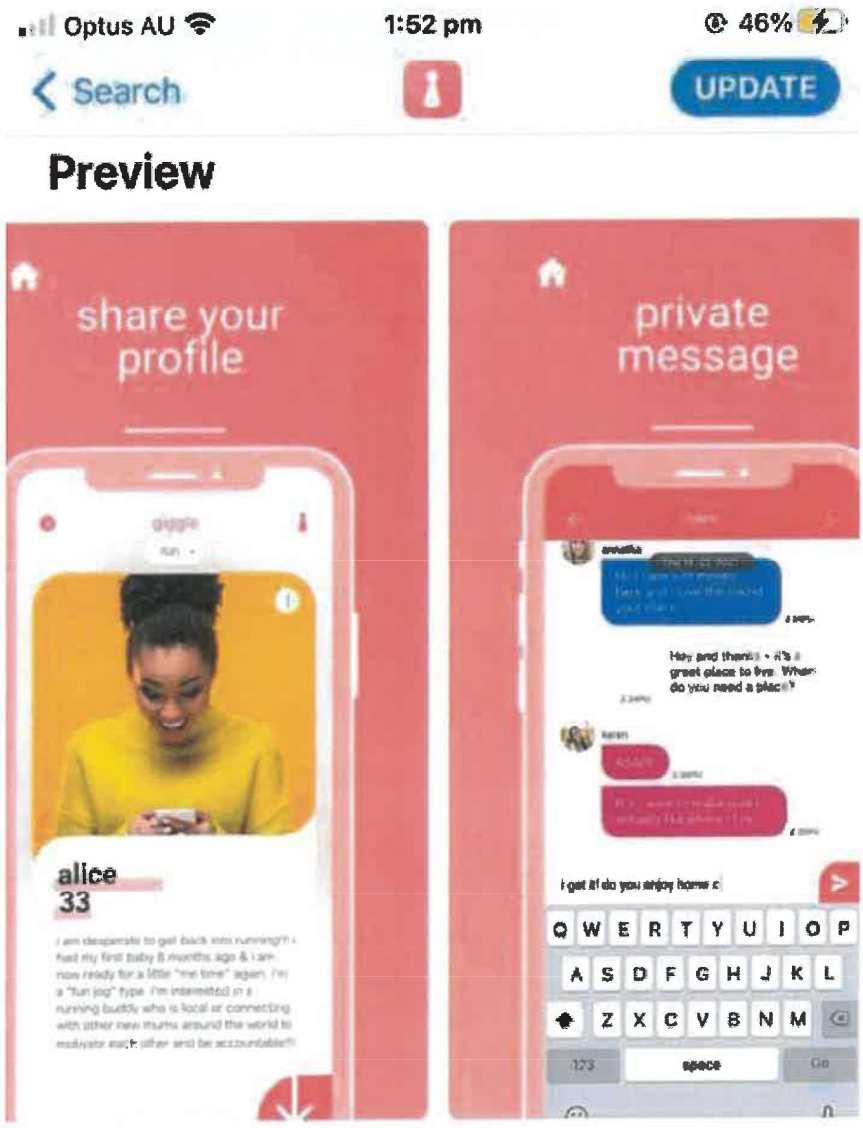
K Dewes

Witness



DocuSigned by:
3ABC9A789EA7453...
Deponent

K Dewes
Witness



iPhone

Just Released: Giggle Talk (GT) Social Media without Misogyny.
ABOUT THIS APP more

DocuSigned by:
3A8C9A789EA7453...
Deponent

K Deves
Witness

App under attack

26. On 7 February 2020, I woke up to an inundation of abuse on the App Store, Google Play, my Twitter (which I did not Tweet from at the time, I was a "read only" user) and on the Giggle App itself. Appearing at pages 37 to 41 of **SG-3** are the Google reviews which presently appear on Apple review pages for the App.

27. On this day, I was introduced to the acronym "TERF" (Trans Exclusionary Radical Feminist, which I now know to be a disparaging description of gender critical feminists who believe that biological sex is real, important, and immutable, whilst being critical of gender, including both gender identity and gender roles). At that time, I had never heard the expression before.

28. On 7 February 2020, Giggle had been invaded by over 5000 applicants who I discerned through my visual inspection of their onboarding selfie were male. For all intents and purposes, it was now a male-dominated space. Thereafter, Giggle experienced this type of onslaught approximately every three weeks until it was shut down.

29. The App Store and Google Play had been inundated with 1-star reviews. Men had created profiles within the App, unrestricted, because the Kairos technology was not yet in place and the backend server was not being constantly monitored.

Content Management of the App

30. On 8 February 2020, the day after the first invasion of men on the App, we made Giggle available to women without any official launch as we had been left with no other choice. Our launch plans had been destroyed due to the attack from men and very negative press which ensued.

31. The intention had always been that human beings would back up the AI onboarding process. This was immediately implemented and me, my Mum and my best friend, Sadie, who based in the US, monitored the onboarding 24 hours a day, 7 days a week on a shift rotation basis.

32. Initially, there was only two management requirements:

(a) Monitoring the onboarding to ensure Kairos was working and remove any males who slipped through. Some days, this involved watching thousands of men attempt and fail to onboard. Some would slip through. They would be manually removed.

(b) Responding to any Users who had submitted a report that a man was on the platform. Most of the men who did successfully onboard would write words to the effect "KILL TERFs" in their profiles which would alert other users and they would be reported and quickly removed.

(c) We wanted the women to trust us to respond to their reports and remove these men quickly, we would take the women's side.

33. Giggle Talk, "female-only Twitter" was introduced as a feature in 2021. It was added to the existing beta app for continued testing. Giggle Talk also had to be monitored, users reported posts and behaviour that breached Giggle's Terms & Service. Reports were infrequent, as the user behaviour of women was overall very polite and easy-going.

34. By September 2021 we had approximately 20,000 users. The numbers fluctuated just over and under.

How the App worked

35. The Giggle App could be best described as many apps on one platform.

36. Upon accessing the App, women could connect privately in direct messages to:

(a) find a roommate, other women to share a lease or a house-sitter;

(b) recruit for freelance work in various fields. Giggle did not take a fee or percentage for connecting women, any exchange of money occurred outside of the App;

(c) find room to rent when travelling or connect with a travel companion;

(d) access emotional support in a variety of subcategories, such as "mental health", "body image" and "bullying" and engage in spiritual or religious connections;

(e) make new friends for specific activities, such as "bar trivia teams", "pen pals" and "brunch";

(f) make connections based on sport and exercise, for teams or motivation; and

(g) make connections based on professions for mentoring and networking.

37. Giggle also featured a lesbian dating platform. The functionality of the Giggle App was the same as "Tinder" and "Bumble": users created a profile and then "swiped and matched" on each other to begin a private conversation.

38. Giggle Talk was the most public format of the App, but was not publicly accessible beyond the "borders" of the App. It was not an "open network" like, say, TikTok.

39. Private messages of users were encrypted, and Giggle management and servers had no access.

40. Users had to enter a phone number to be able to onboard the platform. A phone number was a requirement in functionality to "anchor" a user to the App via their smartphone. The smartphone would then enable the User to access the system to create a profile. Every online platform has an anchor whether it is phone number or email based.

41. A code would then be sent to the User's smartphone phone number that they would then use to complete the onboarding registration process.

42. The App was only able to be used on smartphones, we did not have functionality for tablets or laptops.

43. Users then had to take an onboarding selfie to ensure the platform remained "female only" to be assessed by the Kairos AI technology.

44. We decided to limit registration requirements to a phone number and the onboarding selfie. We felt that the requirement for multiple categories of information such as date of birth as required by Facebook was too onerous and intrusive, we did not want the life story of our Users. We wanted to keep the onboarding process simple and unintrusive. We felt a selfie would be the least controversial requirement.

45. Once accepted on the platform, users could choose where they wanted to create a profile and could create as many profiles as they wanted, in as many categories as they wished. From there, they could connect and converse with other users. They did not have to use their name; they were able to self-select a handle as their User profile name.

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Witness

46. If a potential User was rejected on the basis of the Kairos AI assessment of their sex, a pop-up message would appear on the App saying, "Oops You Have Not Been Verified Please Try Again"

47. If a potential User was rejected, they would not have access to the App. They would not have access to any functionality, they would see any other User profiles or groups or Giggle talks.

Kairos AI Algorithm

48. The Kairos "Gender Detection" was set to 94% accuracy. Through our testing, we found that this setting suited us best because it did not deny women access to the App, unless the photo was blurred or poorly pixilated, while simultaneously rejecting most men. This setting occasionally let males onboard. Sometimes it was just a technological error, and other times there had not been an onboarding attempt after a period, so the API was "waking up" after a "sleep".

49. The AI software was not perfect, but it was never supposed to be. The plan was always to use human eyes, with the AI as a screening aid. These two measures working in tandem was, in our experience, the best way to create a female-only space.

50. There was no notification process if a potential user was rejected by AI. Applicants who were rejected would often email Giggle. I could, through the use of their phone number, access the prospective applicant's profile on "Athena".

51. "Athena" was the "backend server" of Giggle and on this dashboard, we could see everything that was happening with onboarding and reports. It was a database set up. Onboarding would appear in the database in real time and the onboarding selfie could be inspected by human eyes. If the photo was of a male, it would be rejected, if it were a female the applicant would be accepted. If the photo was ambiguous, which it seldom was, unless the photo was blurry, the applicant would be asked to take another photo and the assessment would occur again in the same manner as above. On all occasions when this process was undertaken the applicant's sex was obvious and apparent to me and I acted accordingly.

52. On Athena, we could override all decisions made by the AI software by simply changing "accepted" to "blocked".

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53. Men trying to get access to the App frequently used a screenshot of a woman. Jennifer Aniston and Miss Piggy were regular favourites among these men. The AI would reject screenshots or photos of photos. The AI would not accept photos which had been altered by filters or photo shopped. If you agreed to do the selfie the AI would use a "liveness" feature which required access to the smartphone's camera and the applicant would have to take a photo on the spot. These men were taking photos of photos. The AI would reject these photos. The men would also at times submit "dick pics" or images of porn, including graphic and grotesque images. These men came from all over the world.

54. The App was designed to accept females with a transgender identity (trans men and non-binary people). I have been very clear in my public statements about the App that trans men were welcome on the App. Appearing at pages 42 to 45 of **SG-4** are examples of my public statements to this effect.

55. To ensure that female faces with more masculine combinations of traits were not rejected from the App, we set the AI function 94% accuracy. To ensure women were not excluded from entry to the App, we were prepared to accept some males getting through the AI with the strategy that they would then be caught by human eyes viewing the onboarding selfie or by User reporting them.

56. The only women who were very occasionally rejected were white women who took selfies in front of a plain white wall or if the photo was blurry. This was ironic considering we were accused of "racism" and rejecting women of colour. No women of colour to my knowledge were rejected. Females from all races and "genders" who wished to join Giggle were welcome on the platform and successfully onboarded either through the AI or manually.

Closure of the App

57. On or about 13 or 14 July 2022, when I was in labour with my daughter, Colin Montgomery known as "Katy Montgomerie" online, a well-known male transactivist who identifies as a woman, called for an attack on the App on Twitter. In preparing this affidavit I have searched for the tweet but have not been able to find it. We had thousands upon thousands of men applying to join the App.

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58. I had to ring my Mum to take over monitoring the onboarding selfies as I need to go to the hospital to give birth to my daughter.

59. My Mum and Dad had been instrumental in creating the App with me. As a family we were mortified by what was happening. We had anticipated that there would be some men who were unimpressed by the idea of something "just for women" but we were not prepared for the barrage of vitriol, abuse, and death threats we received.

60. We blocked thousands of male users, but we had no way of deleting the 1-star reviews on the Apple App Store and Google Play unless we uploaded a new version of the App.

61. 1-star reviews prohibit effective advertising, so we had lost the opportunity to advertise the App. There was no way to monetise the Giggle without advertising.

62. Women using the App for the purpose for which it was intended left fantastic and positive reviews, it was clear to me the App was delivering a service to the market that had not been provided to date. Many women were grateful and excited to have a female only space where they felt safe online, and could speak freely of their opinions, problems, and topics of interest to them without male voyeurism, threats, abuse, harassment, judgment or mansplaining. They felt they could speak freely and openly. Appearing at pages 46 to 48 of **SG-5** are the women's reviews.

63. US-based media wrote articles calling Giggle "transphobic" and gave us no right of reply. Appearing at pages 49 to 66 of **SG-6** are examples of some of the online articles. Australian media would not speak to me.

64. We decided to "tread water" for a while, naively thinking that the "culture war" would blow over quickly, after which we could stage a new launch. I thought this would be a quick process. My experience had made me resolute that a female-only online space was necessary.

65. It has now been 14 months since the App was shut down.

66. The App is currently not available, we have removed it from Apple and Google stores.

67. We no longer have the coding or the database or any data from the App. We are rebuilding the App from scratch.

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The Applicant

68. The Applicant claims to have become a user on the App in February 2021. I have been unable to verify this.

69. I did not become aware of the Applicant joining the App until I received texts and calls to my phone in October 2021. The messages were to the effect that the member had been removed from the App. I did not answer the calls or respond to the texts. I did not keep these texts.

70. I had the Applicant's phone number from the text, so I typed it into Athena, the Giggle server. I looked the onboarding picture and saw a male person. Below is the Applicant's onboarding selfie.

Details | User

Mobile: [redacted]

Verify Count: 1

Token: 1YF4Z6Fk-jg4L-cWkl-BM0AijQ44Wcm



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71. I called my Dad and told him that a man had said he was a Giggle user and had been removed from the App. I told my Dad that a man had called and texted my phone. My Dad told me to block his phone number and ignore him, and that is what I did.

72. I felt very scared, threatened, and harassed that this man had called and text my phone. The thoughts going through my mind were "is this person going to turn up at my house?" I found the texting and calling myself to be a gross invasion of privacy and overstepping my boundaries. I had no idea how this man had obtained my personal mobile phone number. As far as I am aware my phone number is not publicly available anywhere. I was scared. I was repulsed. I did not even think to keep the text. I think I deleted it. I have searched my phone and I have no record of it.

73. No other User, male or female, has ever contacted me privately.

74. I have no recollection of removing the Applicant from the App. However, I assume it would have been me who removed him, as at that time I was managing most of the shift monitoring on my own. I removed countless men from the App at or about this time. It was my experience that at that time that there could be 50 to, sometimes up to 5000 men trying to access the App daily. When a User was removed from App, they are not put on restricted access, they are blocked completely form using the App.

75. If a man ever wrote to complain he was excluded or removed from the App, our company policy was to ignore him. We did not have the resources of time to respond to all the male complainants.

76. When the Applicant made the complaint to the Australian Human Rights Commission and the App was still active, I accessed the Applicant's profile. The Applicant made multiple profiles on the app, using the names "Roxy", "Roshy" & "Roshy Darling". In none of the profiles did the Applicant mention "gender", "gender identity", "trans" or "trans woman". The Applicant made no connections on the App, had no interactions or connections with any other user, made no connections, did not make any posts or any contributions. Appearing at pages 67 to 69 of **SG-7** are the screenshots of the Applicant's profile which I accessed at this time.

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Twitter Interactions with the Applicant

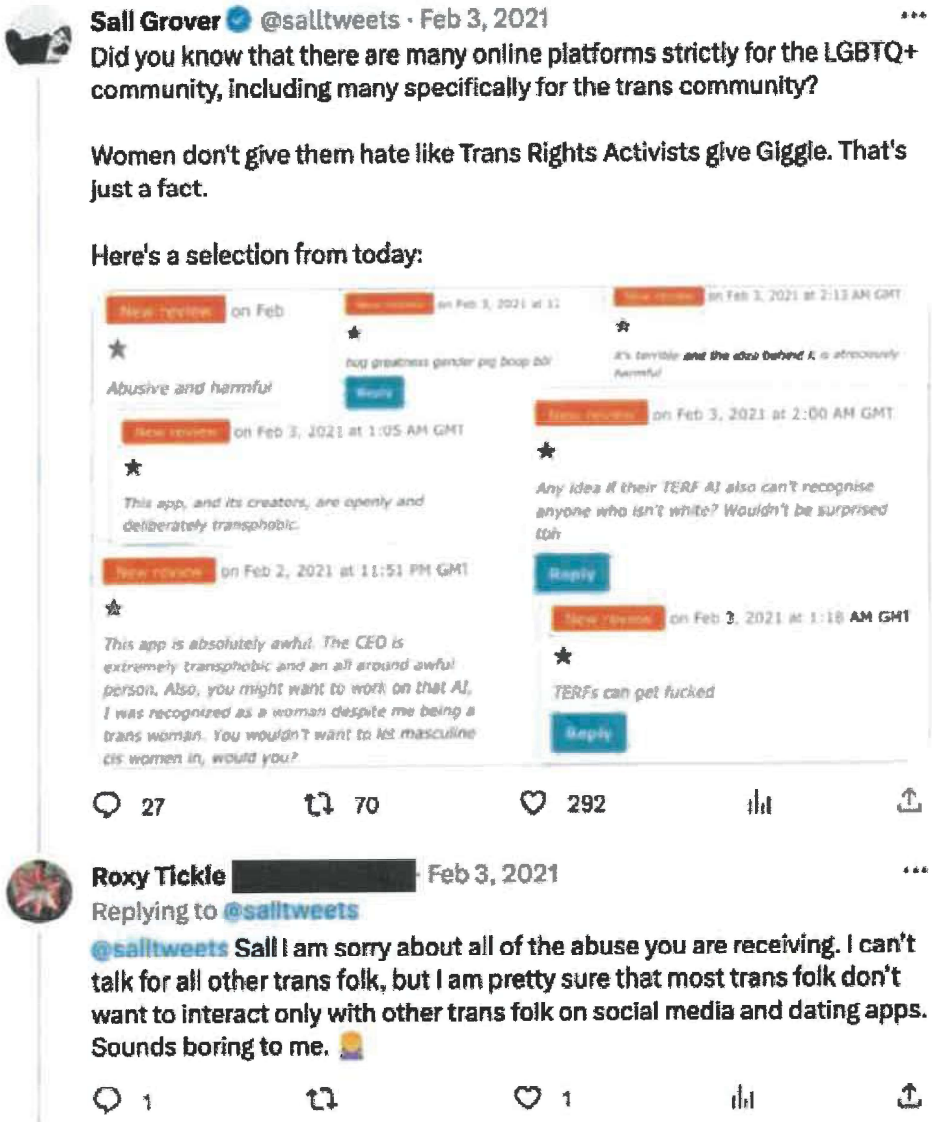
77. Prior to October 2021, I knew nothing about the Applicant.

78. Since about June 2020, I have daily frequently engaged on Twitter (now "X"). I have countless interactions with random and/or anonymous accounts on Twitter. I do not recall the interactions I have had, and I do not pay much attention to them. Twitter engagements are rapid and oftentimes superficial and insignificant.

79. It is only in the context of the Applicant's complaint that I have since had occasion to revisit my Twitter history with the Applicant.

80. I know now that I had two public exchanges with the twitter handle @[redacted] Twitter account on Twitter in January and February 2021. At this time the exchanges occurred I did not know who Roxy Tickle was or that there was such as person as Roxy Tickle.

81. Below is the Twitter exchange that I now know I had with the Applicant.



82. On 15 January 2021, I replied to him, "changing the rules of female spaces isn't the answer. It's not right or fair. A lot of women enjoy female spaces because of the camaraderie & safety. I feel like trans women should have that with trans women, in these situations."

83. On February 3, 2021, the Applicant responded to a Tweet of mine detailing the 1-start reviews trans activists were leaving on the App Store. I Tweeted: "Did you know

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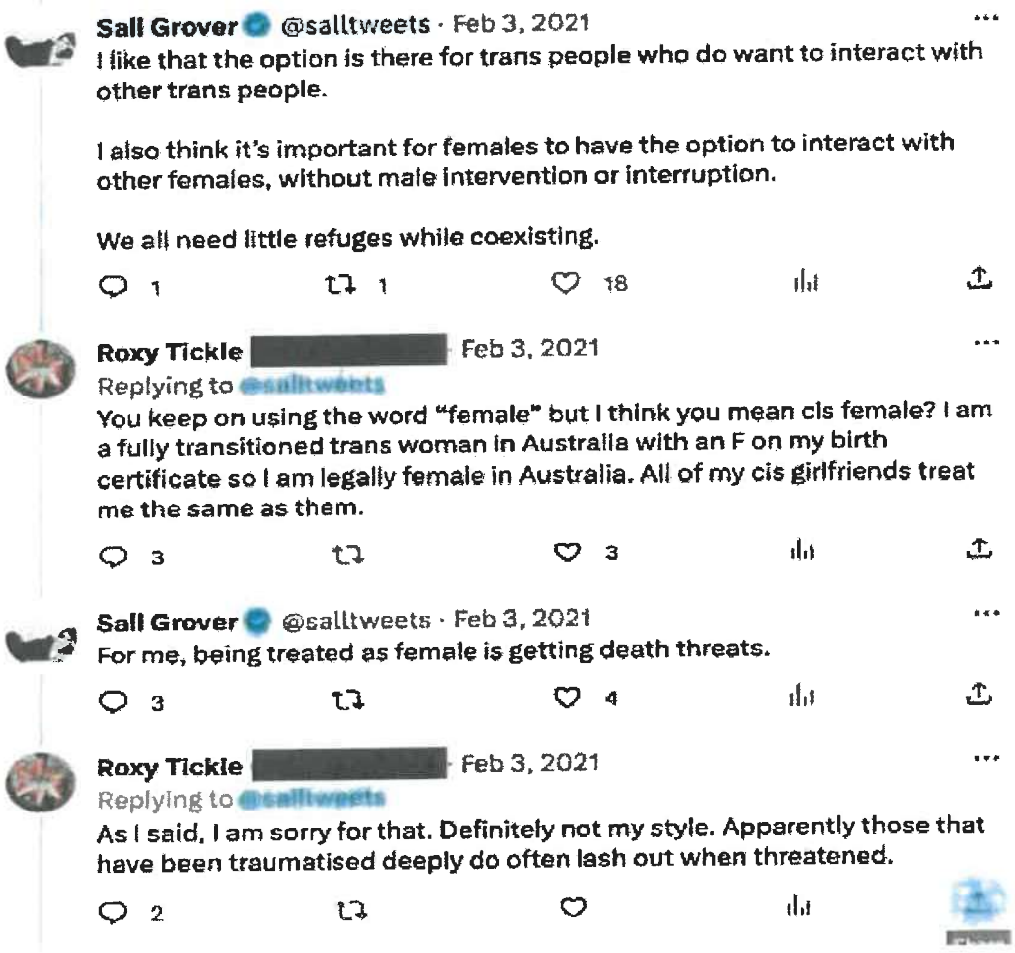
that there are many online platforms strictly for the LGBTQ+ community, including many specifically for the trans community? Women don't give them hate like Trans Rights Activists give Giggle. That's just a fact. Here's a selection from today."

84. We had several exchanges on this date. They are set out below.

85. I know now I must have blocked the @[redacted] Twitter account. It was nothing personal, it was common practice for me to block Twitter users.



Sall Grover @salltweets · Feb 3, 2021
I like that the option is there for trans people who do want to interact with other trans people.

I also think it's important for females to have the option to interact with other females, without male intervention or interruption.

We all need little refuges while coexisting.

1 1 18

Roxy Tickle [redacted] · Feb 3, 2021
Replying to @salltweets
You keep on using the word "female" but I think you mean cis female? I am a fully transitioned trans woman in Australia with an F on my birth certificate so I am legally female in Australia. All of my cis girlfriends treat me the same as them.

3 3

Sall Grover @salltweets · Feb 3, 2021
For me, being treated as female is getting death threats.

3 4

Roxy Tickle [redacted] · Feb 3, 2021
Replying to @salltweets
As I said, I am sorry for that. Definitely not my style. Apparently those that have been traumatised deeply do often lash out when threatened.

2

86. On 3 February 2021, Tickle Tweeted, "Sigh. Sall Grover of Giggle is complaining about having to block accounts (fair enough) because she is receiving abuse. But I just tried to have a CALM conversation with her and SHE blocked ME."

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87. I have no recollection of the conversation to which the Applicant refers in this tweet.

Applicant falsely claims access to App

88. On 20 January 2022, I received the Applicant's Australian Human Rights Complaint.

89. On 24 January 2022, the Applicant had a Twitter discussion with "Dawn Ennis", a male who identifies as trans and is a well-known transactivist. He is known for identifying as trans, then returning to a male identity, then re-identifying as trans.

90. Dawn Ennis tweeted: "@salltweets Just downloaded your app #Giggle, "For Females Only" and, based on my selfie, I've been "verified as female," Thanks! What I want to know is, how can you defend blocking women like me from using your app? I'm #trans, and I write for @Forbes"

91. The Applicant tweeted: "I, also a trans woman, thought I would be refused access when I applied to join nearly a year ago. I was admitted. I finally got around to telling Sall in October or so. It was only today that I was kicked out."

92. The Applicant further tweeted: "Oh no... my mistake... I'm back in... must have had something to do with Giggle being hacked."

93. Dawn Ennis tweets: "I just want to thank her for verifying me as female!"

94. The Applicant respond tweets: "Me too! It's very affirming"

95. I deny the Applicant's assertion that he was removed from the App on 24 January 2022 as he had been removed from the App in October 2021 and he had not regained access.

96. I deny the Applicant's assertion that he onboarded onto the App on 24 January 2022. I deny that Giggle was hacked on or around that time. Giggle was never hacked.

97. I deny that I verified Dawn Ennis as female. Prior to shutting Giggle down, on or about 24 January 2022, upon reading the tweets to which I refer below, I accessed Athena to look at the day's downloads and Dawn Ellis' selfie was in the rejected downloads of the day. I verified that Dawn Ennis is male based on the selfie he had provided.

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98. Below is a photo of Dawn Ellis as provided by him to TERFs challenge reporter's gender at NCAA Women's Championship, Los Angeles Blade, 20 March 2022, accessed at https://www.losangelesblade.com/2022/03/20/terfs-challenge-reporters-gender-at-ncaa-womens-championship/ and the tweets to which I refer in the paragraphs immediately above. Appearing at pages 70 to 75 of **SG-8** is a copy of the the online article to which I refer.





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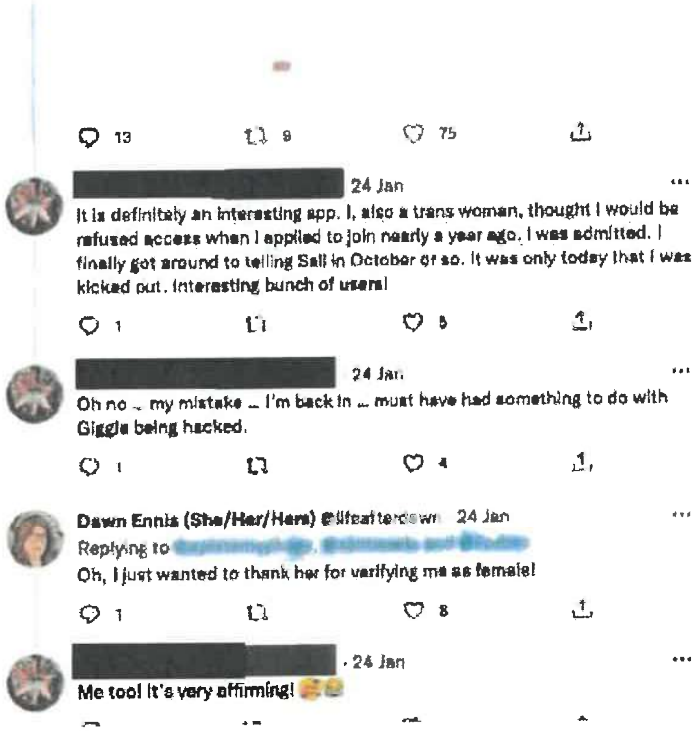

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Deponent

K Deves
Witness

Affirmed by the deponent
[redacted]
on 23 October 2023
Before me:

)
)
)
)
)

DocuSigned by:
3A8C9A789EA7453

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed and affirmed by the deponent by audio visual link.

***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

DocuSign Envelope ID: 55D6A1AC-F556-4DD0-A913-1F408AAE9B9B

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "SG-1

This is the Annexure marked "**SG-1**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

InfoTrack
1800 738 524

ASIC
Current & Historical Organisation Extract



ASIC Data Extracted 23/10/2023 at 14:15

This extract contains information derived from the AustralianSecurities and Investment Commission's (ASIC) database undersection 1274A of the Corporations Act 2001.Please advise ASIC of any error or omission which you may identify.

- 632 152 017 GIGGLE FOR GIRLS PTY LTD -

		Document No.
ACN (Australian Company Number):	632 152 017	
ABN:	79 632 152 017	
Current Name:	GIGGLE FOR GIRLS PTY LTD	
Registered in:	Queensland	
Registration Date:	08/03/2019	
Review Date:	08/03/2024	
Company Bounded By:		

- Current Organisation Details -

Name:	GIGGLE FOR GIRLS PTY LTD
Name Start Date:	08/03/2019
Status:	Registered
Type:	Australian Proprietary Company
Class:	Limited By Shares
Sub Class:	Proprietary Company

- Company Addresses -

- Registered Office 7EBL84924
Address: [redacted]
Start Date: 07/10/2021

- Previous Registered Office 0EHS03132
Address: [redacted]
Start Date: 08/03/2019
Cease Date: 06/10/2021

- Principal Place of Business 7EBL84924
Address: [redacted]
Start Date: 28/09/2021

- Previous Principal Place of Business 0EHS03132
Address: [redacted]
Start Date: 08/03/2019
Cease Date: 27/09/2021

- Company Officers -

Note:
A date or address shown as UNKNOWN has not been updated since ASIC took over the records in 1991. For details, order the appropriate historical state or territory documents, available in microfiche or paper format.
* Check documents listed under ASIC Documents Received for recent changes.

Director

Name:	SALLY BREE GROVER	0EHS03132
Address:	[redacted]	
Birth Details:	[redacted]	
Appointment Date:	08/03/2019	
Cease Date:	//	

Previous Director

Name:	ANNE-MAREE GROVER	0EHS03132
Address:	[redacted]	
Birth Details:	[redacted]	
Appointment Date:	08/03/2019	
Cease Date:	17/08/2022	

Ultimate Holding Company

Name:	632 151 154 WADD HOLDINGS PTY LTD	0EHS03132
Address:		
Appointment Date:	//	
Cease Date:	//	
Abn:	66 632 151 154	

- Share Structure -

Current

Class:	ORDINARY	0EHS03132
Number of Shares Issued:	120	
Total Amount Paid / Taken to be Paid:	$120.00	
Total Amount Due and Payable:	$0.00	

Note:
For each class of shares issued by a company, ASIC records the details of the twenty members of the class (based on

shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

- Share/Interest Holding -

Current

- Holding -

Class:	ORD	**Number Held:**	120	0EHS03132
Beneficially Owned:	Yes	**Fully Paid:**	Yes	

- Members -

Name:	WADD HOLDINGS PTY LTD
ACN:	632 151 154
Address:	PO BOX 487 MAIN BEACH QLD 4217
Joint Holding:	No
Abn:	66 632 151 154

- External Administration Documents -

There are no external administration documents held for this organisation.

- Charges -

There are no charges held for this organisation.

Notes:
On 30 January 2012, the Personal Property Securities Register (PPS Register) commenced.
At that time ASIC transferred all details of current charges to the PPS Registrar.
ASIC can only provide details of satisfied charges prior to that date.
Details of current charges, or charge satisfied since 30 January 2012 can be found on the PPS Register, www.ppsr.gov.au.
InfoTrack may cap documents for on-file searches to 250.

- Document List -

Notes:
* Documents already listed under Registered Charges are not repeated here.
* Data from Documents with no Date Processed are not included in this Extract.
* Documents with '0' pages have not yet been imaged and are not available via DOCIMAGE. Imaging takes approximately 2 weeks from date of lodgement.
* The document list for a current/historical extract will be limited unless you requested ALL documents for this extract.
* In certain circumstances documents may be capped at 250.

Form Type	Date Received	Date Processed	No. Pages	Effective Date	Document No.
370	06/09/2022	20/10/2022	3	06/09/2022	031697692

370	Notification By Officeholder of Resignation or Retirement				
484	30/09/2021	30/09/2021	2	30/09/2021	7EBL84924
484	Change to Company Details				
484B	Change of Registered Address				
484C	Change of Principal Place of Business (Address)				
201	08/03/2019	08/03/2019	3	08/03/2019	0EHS03132
201C	Application For Registration as a Proprietary Company				

- Company Contact Addresses -

*** End of Document ***

DocuSign Envelope ID: 55D6A1AC-F556-4DD0-A913-1F408AAE9B9B

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "SG-2"

This is the Annexure marked "**SG-2**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Deves

Solicitor for the Respondents

LOG IN

KAIROS

Solutions Why Kairos Demos Help Pricing Blog Get Started

THE FACE RECOGNITION COMPANY YOU CAN TRUST

Recognize People The Way You Want

Integrate **Face Recognition** via our cloud API, or host Kairos on your own servers for ultimate control of data, security, and privacy—start creating safer, more accessible customer experiences today.



- ✔ **Leading Edge AI**
- ✔ **Built for Global Scale**
- ✔ **Ethical Vendor**

Start a Free Trial

"Kairos has established itself as a leading AI engine provider in the facial recognition space."

— Tyler Schulze, VP Strategy, Veritone

VERITONE

Our Solutions



Privacy and Regulations

Kairos' Commitment to Your Privacy and Facial Recognition Regulations.

LEARN MORE



Self-Service Kiosks

How Facial Recognition Is Impacting the Kiosk Industry.

LEARN MORE



Know our customers

Discover why companies like yours choose Kairos

LEARN MORE

Face Detection

Find human faces in photos and images.

Face Identification

Search for face matches. Answers: "Who is this?".

Face Verification

Search for someone's face. Answers: "Is this Elizabeth?".

Age Detection

Detects age groups; child, young-adult, adult, or senior.

Gender Detection

Detects gender of each face found; female or male.

Multi-face Detection

Detects individuals, crowds, audiences and groups.

Facial Coordinates

Detects size; pitch, roll, yaw, and key landmarks.

Anti-Spoof Detection

Ensure security by checking the liveness of faces.

Diversity Recognition

Understand more about the diversity of the human face.

Our Demos

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Ready to get started with Kairos?

READY TO GET STARTED?

Test, build, scale—implement with confidence

CHOOSE YOUR PLAN

SELF-HOST KAIROS

Kairos Face Recognition: On-Premises Edition

DISCOVER ON-PREM

WE HAVE CODE

Developer docs and example apps

EXPLORE DOCS

© 2023 Kairos AR, Inc. Terms Privacy

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FACE RECOGNITION FEATURES

What is Kairos?

Kairos enables developers and businesses to easily build face recognition into their software products—integrate with our API today.

SEE PRICING



Face Detection

Find human faces in photos and images.



Face Identification

Search for face matches. Answers: "Who is this?".



Face Verification

Search for someone's face. Answers: "Is this Elizabeth?".



Age Detection

Detects age groups; child, young-adult, adult, or senior.



Gender Detection

Detects gender of each face found; female or male.



Multi-face Detection

Detects individuals, crowds, audiences and groups.



Facial Coordinates

Detects size; pitch, roll, yaw, and key landmarks.



Anti-Spoof Detection

Ensure security by checking the liveness of faces.



Diversity Recognition

Understand more about the diversity of the human face.

How do I use Kairos?

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No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "SG-3"

This is the Annexure marked "**SG-3**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Deves

Solicitor for the Respondents



Mildred Morgan

★ · · · · 8 February 2020

Gender verification is incredibly disrespectful and discriminatory. There is no saying what a woman looks like and your standards for femininity are disgusting. Just because queer people don't look the way you want them too does not give you the right to exclude them



alex

★ · · · · 9 February 2020

Transphobic, mildly misogynistic garbage The idea that your womanhood can be quantified by how you look is repugnant. The name 'Giggle' for a 'girls'-only social media platform is also more than a little bit infantilising, no? And why all the pink? This is a 30-something marketing major's idea of an



Shrehrgheaahbtbbdx, 02/10/2020

Transphobic and unscientific

Despite any noble intentions, this app grossly misunderstands the meaning of gender and aims to weaponize trans and nb women's bodies against them. Plus, computers r… more



seventhsun, 02/12/2020

Transphobic facial recognition can't actual...

Is this a social experiment or real life, because I feel like trans people are being trolled by TERFs with this garbage

more



Freddie David

★ · · · · 7 February 2020

This app could have been a cool concept considering how few spaces there are for women online, but the whole verification process is genuinely awful and based on bad science. I wish that, as a trans woman, I didn't have to take extra steps and out myself to the team behind the app just to gain acces

Google Play

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Giggle

Wadd Holdings Pty Ltd

Contains ads · In-app purchases

1.4★ 1.62K reviews

10K+ Downloads

Mature 17+

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You don't have any devices



About this app

ABOUT THIS APP
Made for Women by Women. Connect on Giggle about the latest Issues, politics, gossip, news and more. Promote your business and or yourself, find accomodation and roommates, connect privately to discuss your most intimate thoughts - all with mutual consent - and without unwanted interruptions and misogynistic abuse.

Join the conversation ..

Updated on
May 27, 2021

Social

Data safety

Developers can show information here about how their app collects and uses your data. Learn more about data safety

Google Play

Games Apps Movies & TV Books Kids

Ratings and reviews are verified

Phone Tablet

1.3

5
4
3
2
1

1.59K reviews

A Google user

★ February 6, 2020

The weird verification process aside, the UI itself is awful. Chats always have the members at the top, so when you're typing to someone it's almost impossible to read the previous message. It took multiple attempts to get a direct link to a gig to work, and then it uses an auto-generated profile. The system of having to make a profile for each individual topic is honestly ridiculous, it just feels like at no point was the UX thought about when making this app.

171 people found this review helpful

Did you find this helpful? Yes No

Wadd Holdings Pty Ltd February 7, 2020

With every new app version we are introducing new features and improving existing ones. We are sure that your feedback will only help us improve further.

Wendy Gilbert

★★ November 16, 2022

Changing my review again! 16/11/22. The updated app woolly I load. Even after multiple attempts. It gets stuck on the loading screen (white with pick keyhole). It's a shame as it was a great idea. If a bug fix comes out I might try again, but otherwise there is little point. I'm changing my initial review as the Giggle team have now added the Giggle Talk feature which makes the whole experience better. My one complaint is that it's very pink, I'd prefer a less 'princessy' colour.

93 people found this review helpful

Did you find this helpful? Yes No

Sarah Louise Cheverton

★ April 26, 2022

Great concept but it took me 5 times to get verified using the photo system. When I contacted the support team, my email was blocked so not much help there...Eventually got verified on the app but can't upload a profile picture. At that point I gave up as the app doesn't

s to need a lot more

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4.2 ★

Qeepsake: Family & Baby Book
Qeepsake
4.7 ★

Hoopla.com
hoopla
3.1 ★

Bird Buddy: Tap into nature
Bird Buddy
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ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "SG-4"

This is the Annexure marked "**SG-4**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Deves

Solicitor for the Respondents

SG-4



Sali Grover @sallitweets · Feb 20, 2021

Let's make it clear: GIGGLE is an app for ALL FEMALES. It's not our nor anyone else's place to redefine what female is. We are here for ALL FEMLES, in every race, religion & region, including females in the LGBTQ community.

HER

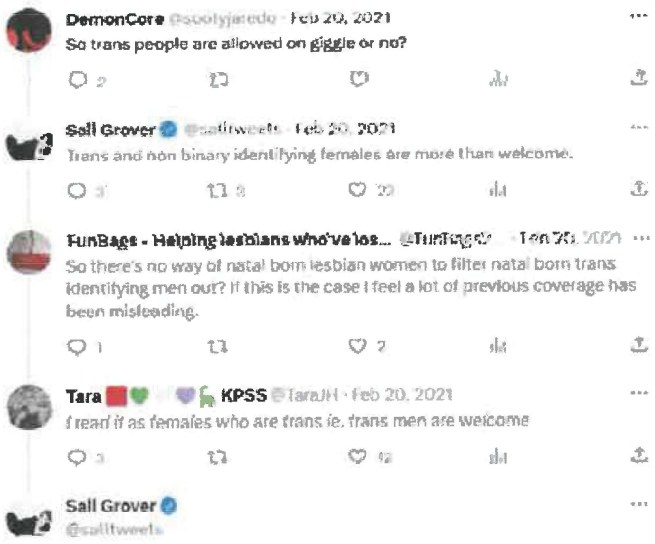
Her App
@HerSocialApp

Let's make this clear: HER is an app for ALL WOMEN and queer folx. It is not our, nor anyone else's place to question or invalidate another's identity. We are here for ALL WOMEN, including the trans community. (1/2)

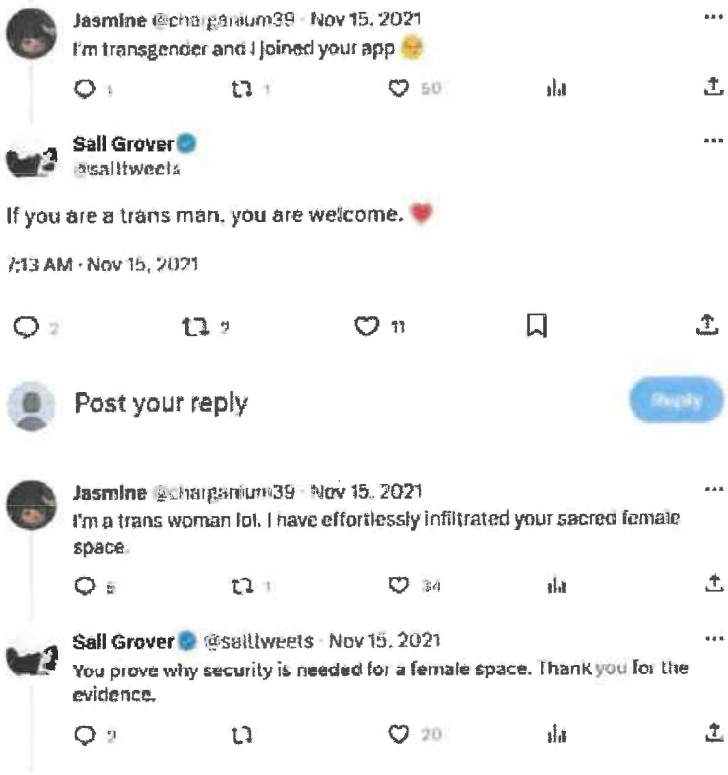
5:07 am · 20/2/21 · Twitter for Android

19 Retweets **8** Quote Tweets **202** Likes

10 39 255


DemonCore
So trans people are allowed on giggle or no?
Sall Grover
Trans and non binary identifying females are more than welcome.
FunBags - Helping lesbians who've los...
So there's no way of natal born lesbian women to filter natal born trans identifying men out? If this is the case I feel a lot of previous coverage has been misleading.
Tara
KPSS
I read it as females who are trans ie. trans men are welcome
Sall Grover
@sallitweets
Not a single trans man has ever asked to be on Giggle. Hasn't happened. However, they're female so they technically could.
11:49 AM · Feb 20, 2021


Florence Rattle
@florence_rattle · Feb 20, 2021
What about trans women?
Sall Grover
@sallitweets · Feb 20, 2021
There are many other apps for trans women. Giggle is not one of them. Giggle is for females.
11


Jasmine @charganum39 · Nov 15, 2021
I'm transgender and I joined your app
Sall Grover
@sallitweets
If you are a trans man, you are welcome.
7:13 AM · Nov 15, 2021
Post your reply
Jasmine @charganum39 · Nov 15, 2021
I'm a trans woman lol. I have effortlessly infiltrated your sacred female space.
Sall Grover @sallitweets · Nov 15, 2021
You prove why security is needed for a female space. Thank you for the evidence.

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ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "SG-5"

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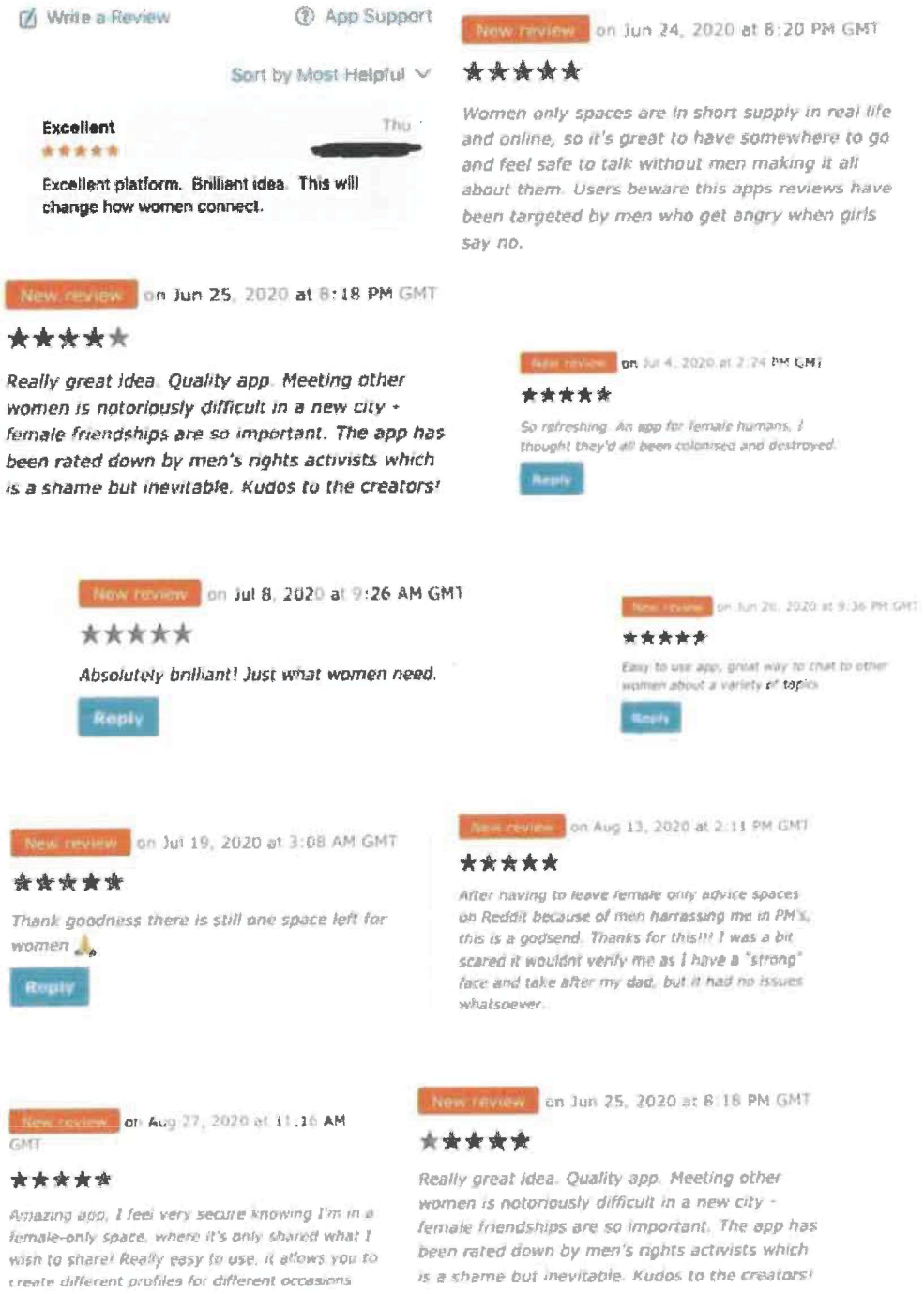
K Deves

Solicitor for the Respondents

SG-5


Write a Review
App Support
Sort by Most Helpful
Excellent
Thu
Excellent platform. Brilliant idea. This will change how women connect.
New review on Jun 24, 2020 at 8:20 PM GMT
Women only spaces are in short supply in real life and online, so it's great to have somewhere to go and feel safe to talk without men making it all about them. Users beware this apps reviews have been targeted by men who get angry when girls say no.
New review on Jun 25, 2020 at 8:18 PM GMT
Really great idea. Quality app. Meeting other women is notoriously difficult in a new city - female friendships are so important. The app has been rated down by men's rights activists which is a shame but inevitable. Kudos to the creators!
New review on Jul 4, 2020 at 2:24 PM GMT
So refreshing. An app for female humans, I thought they'd all been colonised and destroyed.
Reply
New review on Jul 8, 2020 at 9:26 AM GMT
Absolutely brilliant! Just what women need.
Reply
New review on Jul 19, 2020 at 3:08 AM GMT
Thank goodness there is still one space left for women
Reply
New review on Aug 13, 2020 at 2:11 PM GMT
After having to leave female only advice spaces on Reddit because of men harrassing me in PM's, this is a godsend. Thanks for this!!! I was a bit scared it wouldnt verify me as I have a "strong" face and take after my dad, but it had no issues whatsoever.
New review on Aug 27, 2020 at 11:16 AM GMT
Amazing app. I feel very secure knowing I'm in a female-only space, where it's only shared what I wish to share! Really easy to use, it allows you to create different profiles for different occasions
New review on Jun 25, 2020 at 8:18 PM GMT
Really great idea. Quality app. Meeting other women is notoriously difficult in a new city - female friendships are so important. The app has been rated down by men's rights activists which is a shame but inevitable. Kudos to the creators!

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New review on Sep 6, 2020 at 4:58 PM GMT

★★★★★

An app for women by women. In these times, when people have become so blinded and are erasing women metaphorically and legally from society, an app like this is not only needed but essential.

Reply

New review on Oct 18, 2020 at 9:57 AM GMT

★★★★★

Thank you for making a place for women, by women! We desperately need female-only spaces, especially right now! ❤️❤️❤️

Reply

New review on Feb 12, 2021 at 9:08 AM GMT

★★★★★

Love this app. A great and safe space for women and girls to support, mentor and share experiences and knowledge. I have met some wonderful ladies and love the thought and work Sali and her parents have put into it. Great that it also has a space for females who struggle/have struggled with GI. I have recommended to all my female friends. Thank you Sali. xo

Reply

New review on Feb 9, 2021 at 4:26 PM GMT

★★★★★

Attacked as being transphobic for daring to be an app about only women and girls (aka females). Ignore the haters and enjoy this safe space!

Reply



papfr

★★★★★ 12 February 2020

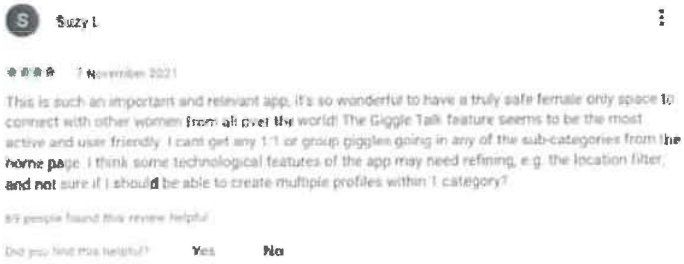
Thank you for making an app for women :) Ignore these salty males



Chardonnay Adams

•* * * 1 December 2020

I was abl-e to be verrfied. As a black woman, I had no problems with the face verification.



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ROXANNE TICKLE

Applicant

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SALL GROVER

Second Respondent

ANNEXURE "SG-6"

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K Deves

Solicitor for the Respondents

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TECH / ARTIFICIAL INTELLIGENCE / POLICY

This girls-only app uses AI to screen a user's gender – what could go wrong? / It doesn't work if you're trans

By Zoe Schiffer
Feb 8, 2020, 7:23 AM GMT+11 | 0 Comments / 0 New



A photo of women supposedly using giggle, as seen on the company website

A new social app called Giggle is pitching itself as a girls-only networking platform. To sign up, users have to take a selfie. And while that might not sound too invasive, the app then uses "bio-metric gender verification software" to determine whether that person is a woman. If that wasn't already bad enough, the technology doesn't work if you're trans.

"[G]iggle is for all girls," the company points out on its website, before adding, "Due to the gender-verification software that giggle uses, trans-girls will experience trouble with being verified." It's the stuff of a dystopian novel.

Giggle, founded by Australian screenwriter Sall Grover, supposedly looks at the bone structure of a person's face to determine their gender. That's problematic on a number of fronts, not least of which is that bone structure is clearly a poor indicator of gender identity. Nevertheless, Giggle says the science is sound. "It's Bio-Science, not pseudo-science like phrenology," the website declares.

Except it sounds a lot like pseudo-science. On Twitter, people called out the app's inherent transphobia. "We shall await our judgement like sheep," one user wrote. "All it takes is one selfie—if giggle lets us in, we are welcomed into the society of women, to pass forevermore. If not, we shall be abandoned in a heap of offals and excrement."

Grover responded to the criticism, tweeting that she'd consulted trans women while building the app and determined it was best to openly admit the software's limits. "We worked with trans girls who decided it was best to be upfront with a flaw so there wasn't any hurtful misgendering," she explained. Later, she said she was "grateful for the feedback" and agreed that some of the wording on the website was "hideous."

The app's privacy policy is also a cause for concern, however. As one Twitter user pointed out, Giggle can collect a ton of personal information, including peoples' images, location, preferences, and browsing data. Giggle is able to then share that information with *third-party* websites and services, including facial recognition providers, chat room providers, and marketers. It also collects sensitive information including peoples' "sexual practices or sex life," their criminal records, and their private health information.

It's unclear why Giggle would need access to such granular data, given that its goal is primarily to connect women with potential roommates or travel buddies. But in an era of ever-expanding surveillance, with companies like Clearview AI identifying people's faces without their knowledge or consent, an app built on dubious biometric screening and extensive data collection should be cause for concern. While Giggle's website says the app is "designed to give girls choice, control and connection," its technology seems to do just the opposite.

Giggle did not immediately respond to a request for comment.

0 COMMENTS (0 NEW)

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A social media app just for 'females' intentionally excludes trans women — and some say its face-recognition AI discriminates against women of color, too

Connor Perrett Jan 24, 2022, 2:17 AM AEDT



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A bright pink social media app designed for women uses facial recognition to ban men.

New users take a selfie and artificial intelligence decides if they're male or female.

Trans women are banned, and some reviews say the app misidentifies women of color as men.

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narketed towards "females" has faced a barrage of online
for excluding transgender women with its use of artificial
nce.

hich first launched in early 2020, according to The Verge, uses facial recognition to determine if new users are male or

female.

"The way the app works is when you install it, you have to take a picture of yourself and it uses AI to analyze your face," said Jenny, a 23-year-old trans woman from California. "And if it decides you're a woman, it will let you in. If it decides you're a man, it will reject you. But if it rejects you, you can just submit another picture."

Giggle's founder and CEO, Sall Grover, has brashly pushed back against online criticism, including claims that the app uses technology that has failed to properly identify women of color, while publicly embracing an ideology that's considered harmful to trans people.

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"This particular combination of gender categorization and facial recognition and race is something that we absolutely know is a ," Casey Fiesler, a professor at the University of Colorado who studies technology ethics, told Insider.

Jump to

Main content
Search
Account

e, however, has gone beyond the platform's questionable AI practices. Grover, who has embraced being called a "TERF" — trans-exclusionary radical feminist — told Insider that she decided

to exclude trans women from the platform once trans activists began using it.

According to Giggle's website, the app sends a new user's selfie to the facial-recognition AI company Kairos, which analyzes the photo.

"Through computer vision and deep learning, they recognise females in videos, photos, and the real world," according to Giggle. If the Kairos AI is 95% certain the person is female, the person is allowed to create an account, Giggle says. Kairos did not return Insider's request for comment.

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Grover said in a December tweet in the wake of the controversy that the app would be temporarily removed from the Google app store after the company was targeted with negative reviews by people she d in a tweet as "male" and "trolls."

Jump to

Main content
Search
Account

was restored to Google Play in January and has remained on the App Store. Neither Apple nor Google returned Insider's requests for comment about whether the app violated any policies.

Trans people sounded the alarm about Giggle on social media in December

Victoria Morris, a 27-year-old trans woman from Orlando, Florida, said she first heard of Giggle while browsing trans Reddit forums.

Morris, who said she had downloaded the app but was never able to get it to work, tweeted in early December about the slew of negative reviews Giggle received on the App Store. The tweet, which was shared more than 4,000 times, showcased negative reviews claiming the app looked for "euro-centric facial features," excluded Black women, and even verified cisgender men.

Advertisement

> —*Victoria* 🏳 *(@EuphoriTori) December 11, 2021*

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Main content
Search
Account

ho requested her last name be withheld over safety
s, told Insider "it was pretty easy to get past the filter" when
her friends first tried to install Giggle about two years ago.

"Sometimes it took a few tries, but it would eventually work," she said.

She re-downloaded the platform late last year when she saw people were discussing it on social media.

But once she got on Giggle, Jenny said she saw posts in the general discussion section from people who were talking about trans people in "disparaging ways."

Advertisement

> —*jenny_tightpants_ (@halomancer1) December 9, 2021*

After Jenny tweeted about joining Giggle on December 9, another Twitter user tagged Grover in the tweet, claiming Jenny was "[illegible]essing women's boundaries" by using the app. In response, [illegible]eplied "Sorted" with a heart emoji.

Jump to
Main content
Search
Account

[illegible]fter, Jenny said her Giggle app stopped working. She said [illegible]'t receive any formal notice her account had been terminated beyond the tweet from the Giggle CEO.

Artificial intelligence, like the one used by Giggle, has a history of issues around race

Giggle has also faced criticism for failing to recognize faces that don't appear to be white.

Fieseler, the University of Colorado at Boulder professor, said research has shown the type of facial analysis used by Giggle has led to instances of racism because the technology often works better on lighter skin tones.

Advertisement

"It works best for white men and worse for Black women and progressively worse the darker woman's skin is in terms of correctly classifying gender. That's just something that we know," she said.

Jump to
Main content
Search
Account

Joy Buolamwini, a researcher at the M.I.T. Media Lab, in a ınd that Kairos' technology misgendered darker-skinned 22.5% of the time, according to a report from The New York Melissa Doval, the then-CEO of Kairos, told the Times it had anges to its algorithm following the research to improve its accuracy.

Morris said Giggle "seemed like it was harming both trans women and also a lot of women of color or that don't have the Eurocentric features that the app is really designed for."

"We just know that these systems are imperfect," Fieseler said. "So if you're using them for gatekeeping, there's going to be errors and there's likely going to be systematic errors around race in particular."

Advertisement

Grover denied that the platform's AI prevented women of color from using it. If Giggle improperly rejects someone, a prospective user should contact the company to have the problem rectified, Grover told Insider in an email.

"Women of every race are not just welcome on Giggle, women of every race are on Giggle," Grover said.

Jump to
Main content
Search
Account

women were initially allowed on Giggle ere later banned by Grover

Grover, who lives in Australia, said she and her mother had the idea to create Giggle after they shared "many glasses of rose."

"Wc wanted a place where women could go to help each other," she said in an email. "A female space, in the palm of their hand. Where women could find support, connection and a refuge amongst other women no matter where they were or what they were doing."

Advertisement

Grover declined to say how many employees work at Giggle but she said "a team of women" work on the app's onboarding process.

In current marketing materials on its social media channels and on its website, Giggle claims to be a space for "females" rather than a space for "women." This is intentional, Grover said, adding that "the word 'woman' has been so heavily appropriated" that "clarification feels necessary."

Jump to

Main content
Search
Account

aid she decided to exclude trans women from Giggle after ns women posted threats against TERFs on the app.

"There was an orchestrated - albeit failed - attempt to get Giggle removed from the App Store and Google Play. There was some

media attention, all of which called me a TERF and Giggle, Transphobic," she said.

Advertisement

Thereafter, she said she researched trans and "radical feminist" communities and decided that trans women should be excluded from her app.

TERF ideology is harmful to trans people, advocates say

As Vox reported, the term TERF, which labels individuals who exclude trans women from their feminism, originated in the 1970s, but gained traction online beginning in the early 2000s.

Many women who expose such ideology have rejected it, claiming a slur, instead adopting the moniker "gender-critical" s, unlike Grover.

Jump to
Main content
Search
Account

re words that are thrown at women, on a daily basis, who for our own hard-won sex-based rights," Grover said.

"What am I supposed to do? Cower and give up my own rights? No. Never going to happen. You get over it, move on and keep going."

Advertisement

Advocates for the trans community say such TERF ideology creates real-world harm for trans people. In addition to advocating for the exclusion of trans women from women's spaces, TERFs have also historically advocated against access to gender-affirming care for trans people, as Insider's Canela López reported.

Nearly all of Grover's posts to Twitter mention trans people or biological sex. In a December 31 tweet she wrote: "I'd rather be shrill and knowledgeable than be so arrogantly ignorant about something so simple like the immutable binary of biological sex."

In a January 6 tweet, she came to the defense of "Harry Potter" author J.K. Rowling, who has likewise been labeled a TERF for her [illegible] out trans people.

Jump to

Main content
Search
Account

[illegible] who tweeted about Giggle in December, said she never had [illegible] ractions with Grover, but said Grover shared a tweet that called her a "beggar" after she posted a link to a fundraiser for gender-affirming surgery.

Advertisement

In at least one other social media post, however, Grover appeared to inform trans users via Twitter they'd been booted from Giggle, as she had with Jenny.

"Your account has been removed. Thank you for making it very easy for us to do so," Grover said in a December 9 tweet after two trans women said they had been allowed on Giggle.

Jenny said Grover on December 10 shared a collage of tweets from Jenny and her friends. Jenny said she viewed this as her "making fun" of them for calling out the Giggle app for attempting, and failing, to exclude trans women.

In the December 10 tweet, Grover wrote, "it's just not healthy to be this angry over female spaces."

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ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

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K Deves

Solicitor for the Respondents

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SG-7

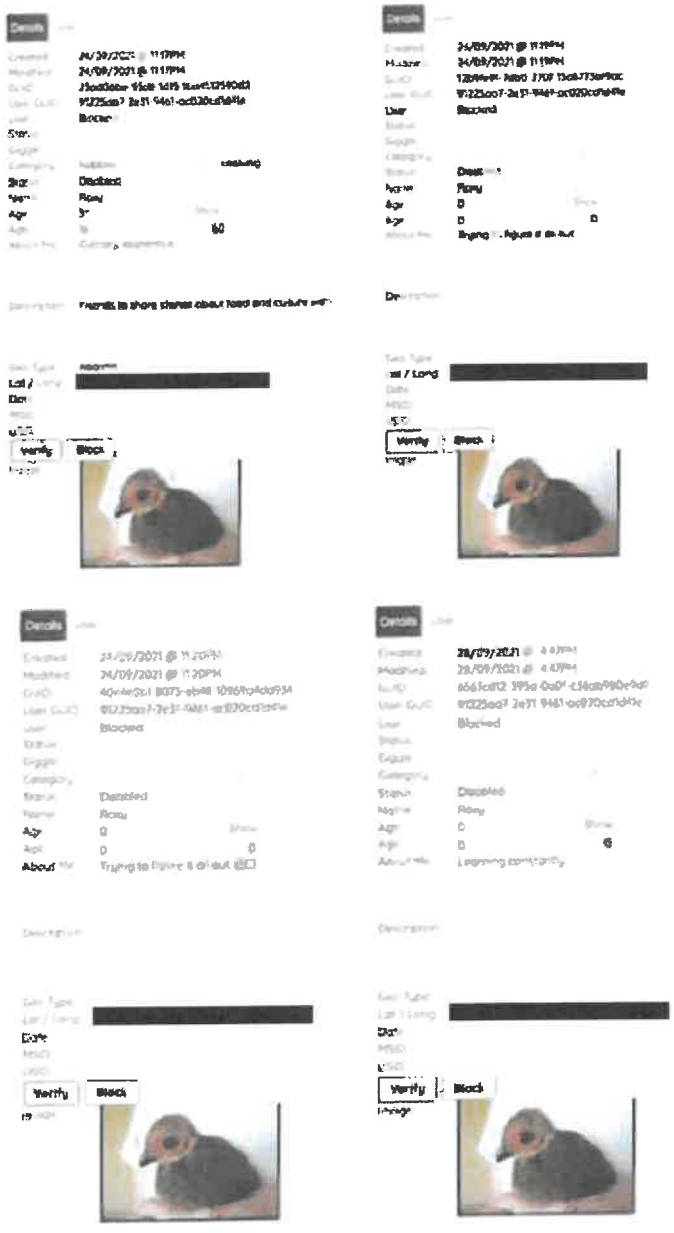

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "SG-8"

This is the Annexure marked "**SG-8**" now produced and shown to Sall Grover at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

DocuSign Envelope ID: 55D6A1AC-F556-4DD0-A913-1F408AAE9B9B

SG-8

COMMENTARY

TERFs challenge reporter's gender at NCAA Women's Championship

The full story of what happened when 10 members of two anti-transgender groups and a swir ^ s dad confronted me i

Published 2 years ago on March 20, 2022
By **Dawn Ennis**

ADVE

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LATEST



Los Angeles Blade Sports Editor Dawn Ennis (Courtesy of Dawn Ennis)

Editor's note: The following piece illustrates the ugly reality faced by Trans people virtually everyday- unceasing malevolent attacks on their humanity and very existence. Los Angeles Blade Sports Editor Da partnership with Forbes to cover th Championships in Atlanta. As part athletes and at one point was gang (TERFs) known in Britain, the UK, as 'Gender Criticals:'

ATLANTA – The first rule of being a journalist is that our job is to witness news, not make news. I did not get credentialed to cover the NCAA D1 Women's Swimming & Diving Championships in Atlanta with the aim of becoming one of the stories. My only mission was to report on the success or failure of out transgender swimmers Lia Thomas and Iszac Henig.

Like Thomas, I am a woman who also happens to be trans. My pronouns are she/her/hers. But to anti-trans inclusion groups like Save Women's Sports and the U.K. based organization, Standing for Women, I am a "biological male" which is a phrase meant to imply that I am not who I say I am. To them, I am a man.

That became quite clear while I was doing my job as a reporter, when one British activist started asking me questions during an interview. My off-the-cuff answers—some of which

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were admittedly inelegant, abstractly metaphorical and definitely not my best choice of words —resulted in shouting, screaming, in-your-face misgendering and bullying. Somehow, I managed to keep my composure, but I will confess, I am still shaking from this. I didn't show it, but they succeeded in scaring me in a way I haven't felt since being surrounded by bullies in grade school.

This is the full account of what transpired, a portion of which was posted to Instagram by Kellie-Jay Keen (@theposieparker) and shared across social media. You can also listen to the unedited raw audio recording that I uploaded to YouTube.

At the conclusion of swimming finals on Saturday evening, I approached Beth Stelzer, founder of the Save Women's Sports group, who was assembling her fellow activists in the hall outside the McAuley Aquatics Center on the Georgia Tech Campus. I had interviewed her and others from her group earlier in the week, and although we stand apart on the issue of transgende: ^ inclusion in sports, we had been civil to one another, and respected what each of us came h... to do.

That all changed in just over six minutes.

Keen wanted to know if I used "women's spaces" here in Atlanta. My answer, over and over, was, "I'm a woman." I don't claim to be the same as a cisgender woman, but there are many ways to be a woman, and I identify as one who's trans.

With her phone camera pointed up at me, the petite Brit then proceeded to lecture me on why I should not be using "women's spaces" like bathrooms and changing rooms and locker rooms.

As she pressed on, I asked Stelzer, "Would you call off your dog?"

That was unfortunate on my part, bec
increased the tension in the air.

All hell broke loose when I used the w

"How dare you!" Keen responded. Immediately, I was surrounded, screamed at, had more cameras and fingers pointed in my face, and bullied for identifying both as a woman and as a mom.

"You're not a mother!" Stelzer screeched. "You never birthed your children, Dawn!" She stepped closer, so that she was inches from my face with Keen so close to my body that her video shows only the UChicago logo over the shape of my breasts under my pullover hoodie.

I tried to explain that while I am not my children's birth mother, I consider myself a mom because I do the job of mom, raising my three children alone.

That's when the father of a Cal swimmer, who identified himself as Matthew, also joined the fray.

"Did you have a period?" I asked him why he was so intent in asking questions about menstruation. Not all women do, I told him, and they're still women.

He went on to tell me, "I have nothing against Lia as a person. I just think competing in this arena is not the right thing to do," Matthew said.

Fortunately, there was no violence and Georgia Tech security was present for most of the confrontation. A security official eventually intervened and escorted the activists outside, where I've learned there was a subsequent angry squabble among them that was described by one witness as "a spectacle."

Keen shared a 2-minute video of the confrontation with her 11.5 million followers on Instagram, and as of press time it has more than 7K views. That same video has been shared nearly 200 times and attracted hundreds of comments on Standing for Women's Facebook page. At least on Facebook, the group got my name right; Keen deadnamed me on Instagram, and also identified me as being from "Outsports" even though I haven't been with the company since May 2021.

My hope in sharing this is not to defend myself or give these activists more attention, but to give everyone some perspective on what it's like to be bullied for being who I am when I'm merely doing my job.

Since this morning, I have been communicating privately with Beth Stelzer and we both regret that this interaction escalated as it did, and we hope we can find a way to have more productive, less confrontational and mutually respectful engagements in the future.

RELATED TOPICS: #ANTI-LGBTQ BULLYING #ANTI-LGBTQ DISCRIMINATION #ANTI-LGBTQ HARASSMENT #ANTI-LGBTQ HATE GROUPS #ANTI-TRANS EXTREMISM #ANTI-TRANSGENDER #ATLANTA #DAWN ENNIS #FEATURED #FORBES MAGAZINE #GEORGIA #HATE AND EXTREMISM #LGBTQ ATHLETES #LGBTQ JOURNALISM #LGBTQ JOURNALISTS #LGBTQ SPORTS #NCAA #NCAA DIVISION I #SAVE WOMEN'S SPORTS #TERFS #THE LOS ANGELES BLADE #TRANSGENDER #TRANSPHOBIA #TRANSPHOBIC BIGOTRY #TRANSPHOBIC POLICIES

DON'T MISS
Transgender students need to pee too

UP NEXT
Putin sees JK Rowling as kindred spirit in war against Trans people

FU

SIGN UP FOR E-BLAST

AROUND THE WEB

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	28/07/2023 3:49:46 PM AEST
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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of:	**Katherine Deves**
Address:	Level 12, 239 George Street, Brisbane QLD 4000
Occupation:	Legal Practitioner
Date:	28 July 2023

Filed on behalf of (name & role of party) The First and Second Respondents
Prepared by (name of person/lawyer) Katherine Deves
Law firm (if applicable) Alexander Rashidi Lawyers
Tel (07) 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) PO Box 12781, George St, Brisbane QLD 4003

[Version 3 form approved 02/05/2019]

Contents

Document Number	Details	Paragraph	Page
1	Affidavit of Katherine Deves deposing any responses received in relation to notices under section 78B of the Judiciary Act 1903 (Cth) that have been served sworn on 28 July 2023.		3
2	Annexure "KD1", being copy of correspondence received from the Australian Government Solicitor on 11 July 2023.	4	4
3	Annexure "KD2", being copy of correspondence received from the Attorney-General's Department of the Government of South Australia on 11 July 2023.	5	6
4	Annexure "KD3", being copy of correspondence received from Crown Law of the Department of Justice and Attorney-General of the Queensland Government on 26 July 2023.	6	8

I, Katherine Deves, of Level 12, 239 George Street, Brisbane in the State of Queensland, Legal Practitioner, state on oath:

1. I am employed by Alexander Rashidi Lawyers (**ARL**) as a solicitor and am the legal practitioner for the First and Second Respondents.

2. On 30 June 2023, the First and Second Respondents emailed the amended section 78B notice to each of the legal representatives for the relevant Attorneys General. The eLodgment Federal Law portal was unavailable due to maintenance from 3pm on 30 June 2023 until 8am on 1 July 2023.

3. At 8.31am on 1 July 2023, the First and Second Respondents filed the amended section 78B notice on the eLodgment Federal Law portal.

4. On 11 July 2023, in response to the amended section 78B notice we received correspondence from Aurora Crain from the Australian Government Solicitor. **Annexed to this affidavit and marked KD1 is a copy of correspondence received from the Australian Government Solicitor.**

5. On 11 July 2023, in response to the amended section 78B notice we received correspondence from the Solicitor-General of the Attorney-General's Department of the Government of South Australia.

K Deves
.....
Deponent

A Rashidi
Witness

Annexed to this affidavit and marked KD2 is a copy of correspondence received from the Attorney-General's Department of the Government of South Australia.

6. On 26 July 2023, in response to the amended section 78B notice we received correspondence from Rob Hutchings, Assistant Crown Solicitor for Crown Solicitor of Crown Law of the Department of Justice and Attorney-General of the Queensland Government.

Annexed to this affidavit and marked KD3 is a copy of correspondence received from Crown Law of the Department of Justice and Attorney-General of the Queensland Government.

7. We have not yet received a response from Australian Capital Territory, New South Wales, Northern Territory, Tasmania, Victoria and Western Australia. Once we receive a response we intend to file an addendum affidavit with their responses.

Sworn by the deponent)
at Sydney)
in New South Wales on)
28 July 2023 before me:)

K Deves

Signature of deponent

A Rashidi

Signature of witness

Alexander Rashidi
Principal Solicitor

This affidavit was signed and sworn by the deponent via audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000 (NSW)**

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALLY GROVER
Second Respondent

This is the exhibit marked "**KD1**" now produced and shown to Katherine Deves at the time of swearing her affidavit on 27 July 2023 before me:

A Rashidi

Solicitor

Australian Government Solicitor
4 National Circuit, Barton ACT 2600
Locked Bag 35, Kingston ACT 2604
T 02 6253 7000
www.ags.gov.au

Canberra
Sydney
Melbourne
Brisbane
Perth
Adelaide
Hobart
Darwin

Our ref. 23002443

11 July 2023

Alexander Rashidi
Alexander Rashidi Lawyers
Level 12, Suite 1205
239 George Street
Brisbane QLD 4000

By email: alex.r@rashidi.com.au

Dear Mr Rashidi

TICKLE, Roxanne v Giggle for Girls – Federal Court of Australia – Proceeding No. NSD1148/2022

As you know, we act for the Commonwealth Attorney-General and acknowledge receipt of your correspondence dated 4 July 2023 providing a sealed amended notice of a constitutional matter in the above proceeding pursuant to s 78B of the *Judiciary Act 1903*.

We will write to you again when a decision has been made on the question of intervention.

Yours sincerely

Aurora Crain

Aurora Crain
Lawyer
T 02 6253 7198
aurora.crain@ags.gov.au

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALLY GROVER
Second Respondent

This is the exhibit marked "**KD2**" now produced and shown to Katherine Deves at the time of swearing her affidavit on 27 July 2023 before me:

A Rashidi

Solicitor

Government of South Australia
Attorney-General's Department

Solicitor-General's Chambers
Level 18
10 Franklin Street
Adelaide SA 5000
GPO Box 464
Adelaide SA 5001
DX 336

If calling please ask for:
Joanne Easson

Telephone:
08 7322 7000

Our Reference:
LM209845

11 July 2023

Ms Katherine Deves
Alexander Rashidi Lawyers
By email only to: katherine.d@rashidi.com.au

Dear Ms Deves,

Re: *Tickle v Giggle for Girls Pty Ltd*: Section 78B of the *Judiciary Act 1903* (Cth) | Action No: NSD1148 of 2022

I refer to the above matter and the Notice of Constitutional Matter filed on 30 June 2023.

I advise that the Attorney-General for the State of South Australia does not wish to intervene in this matter.

However, I would appreciate being informed if the matter should proceed to the High Court of Australia as the Attorney-General may give further consideration to intervention at that stage.

Yours faithfully

SOLICITOR-GENERAL

Per:



Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALLY GROVER
Second Respondent

This is the exhibit marked "**KD3**" now produced and shown to Katherine Deves at the time of swearing her affidavit on 27 July 2023 before me:

A Rashidi

Solicitor

Queensland Government

Crown Law

Department of
Justice and Attorney-General

Your ref:
Our ref: PL8/ATT110/747/UWE
Contact: Nikita Nibbs
Direct ph: 07 3031 5701
Direct fax: 07 3031 5605

26 July 2023

Ms Katherine Deves
Lawyer
Alexander Rashidi Lawyers
Level 12, Suite 1205
239 George Street
BRISBANE QLD 4000

By email: katherine.d@rashidi.com.au

Dear Ms Deves

Roxanne Tickle v Giggle for Girls Pty Ltd ACN 632 152 017 & Anor
Federal Court of Australia, New South Wales District Registry No. NSD1148/2022

I refer to your email of 4 July 2023 enclosing an Amended Notice of a Constitutional Matter issued pursuant to s 78B of the *Judiciary Act 1903* (Cth) in respect of the above proceedings (the **Amended Notice**).

I act on behalf of the Attorney-General for the State of Queensland. The Attorney-General is considering the question of intervention in these proceedings.

The Amended Notice indicates that the respondents will argue that s 24 of the *Births, Deaths and Marriages Registration Act 2003* (Qld) is inconsistent with certain provisions of the *Sex Discrimination Act 1984* (Cth).

Justice Bromwich made orders on 16 June 2023 which provide for a timetable of submissions on 'Constitutional and Constructional Questions'. The s 109 argument raised by your clients in the Amended Notice is not included as a 'Constitutional and Construction Question' for the purposes of those orders.

I nonetheless anticipate that the submissions which your client will file by 6 October 2023 will address the s 109 argument foreshadowed in the Amended Notice. I would appreciate it if you could confirm that this will be the case.

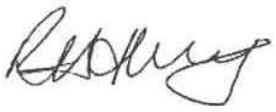
State Law Building
50 Ann Street Brisbane
GPO Box 5221 Brisbane
Queensland 4001 Australia
Telephone 07 3031 5600
Facsimile 07 3031 5998
ABN 13 846 673 994

If so, the Attorney-General will make a decision on the question of intervention after 6 October 2023, upon having the opportunity to peruse your clients' submissions.

I note that, should the Attorney-General intervene after 6 October 2023, sufficient time would remain for the Attorney to file written submissions and for your clients to reply, without disturbing the hearing dates for the matter (in April 2024).

I would be grateful if you could provide a copy of the respondents' written submissions, and any amended pleadings, once filed.

Yours sincerely



Rob Hutchings
Assistant Crown Solicitor
for **Crown Solicitor**

NOTICE OF FILING

Details of Filing

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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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Form 59
Rule 29.02(1)
Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: Louise Birt

Address: [redacted]

Occupation: **Care Liaison for Vision Impaired People**

Date: **20 October 2023 Affirmed**

Contents

Document number	Details	Paragraph	Page
1	**Affidavit of Louise Birt in support of Respondents' defence proceedings affirmed on 20 October 2023.**	1	1

I, Louise Birt, affirm:

1. **I joined the Giggle App in 2020. When I joined the App, the only thing I knew about it was that it was a female-only App. I then became a regular member of the App.**

Filed on behalf of (name & role of party) Louise Birt witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 **Fax**
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
05E0A1B0DE8F453
Deponent

K Deves
Witness.

2. My reason for joining the App was I had been through an acrimonious breakup and divorce and was very depressed. I had become withdrawn socially. I wanted to use social media, but I found the atmosphere of hostility and anger online hard to deal with. I wanted the social connection and the opportunity to take part of discussions relating to politics, which is one of my interests, without men dominating the discussion and being abusive towards me. I was looking for a place to build a social online network and find female friends online. I enjoyed participating in the different topics women would post about and the conversations that would generate from those posts.

3. When it was just women interacting, I had a lovely time on the App. It was a nice, safe space to be a part of. I could talk safely and engage in discussions about private issues, emotional issues, or gynaecological problems. I felt I was able to share personal stories. I interacted with other members on Giggle was as though it was one big room where you could approach other members you wanted to talk to without any hesitancy. but when males were there, the experience became uptight and defensive. I felt I could not post what I would normally post so I felt restricted in my interactions.

4. In my experience, men were able to gain access to the App. When that happened, in my experience, it became unpleasant to use the App. Some men would post aggressive memes, comments about "TERFS" or Nazis, gun imagery and anime porn on the timeline.

5. I made an online friend who was a "detransitioner" (she was born a female, gender transitioned then transitioned back again). She ended up leaving the App. She explained to me that the reason she left the App is because of the experience she had with men gaining access to the App and controlling some of the discussions or becoming intrusive about personal matters with her.

6. I stayed on the App until it closed.

7. I really miss having that safe space now that the App is down.

DocuSigned by:
05EDA1B0DE9F453

Deponent

K Dewes

Witness

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Affirmed by the deponent at [redacted]
on 20 October 2023 Before me:

DocuSigned by:
05EDA1B0DE9F453...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

NOTICE OF FILING

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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: Alison Louise Hill

Address: [redacted]

Occupation: **Laser Aesthetics Business / QLD Public Servant**

Date: **21 October 2023**

Contents

Document number	Details	Paragraph	Page
1	**Affidavit of Alison Louise Hill in support of Respondents' defence proceedings affirmed on 21 October 2023**	1	1

I, Alison Louise Hill, affirm:

1. **I have frontal brain injury. As a result of this injury, I face numerous neurological and neuropsychological problems which significantly affect my quality of life.**

Filed on behalf of (name & role of party) Alison Louise Hill, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 **Fax**
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
Alison
B76D70BD8761...
Deponent

K Deves
Witness

2. In particular, I tend to lack insight and awareness into social situations. This makes it more difficult for me to moderate my behaviour and understand how it comes across to others. It has causes me to miss social cues. I can be very direct and sometimes I do not know what is and what is not appropriate to say. I am often told I say inappropriate things. As a result, I feel uncomfortable and out of place around other people and particularly participating in discussions online.

3. In particular, I feel very uncomfortable in online spaces such as Twitter and Facebook when there are male users on the platform. There are several reasons for this. The first is I experienced several unsolicited approaches from men. For example, I sold my motorbike on Facebook Marketplace and a man messaged me to ask me for a date.

4. The other main reason is that in my experience, I have observed men become more hostile when interacting with women online. Male users are often interacting using anonymous profiles online. I know these users are male because they are more aggressive, less respectful, have no respect for authority figures, and they express more antagonistic and controversial viewpoints than I observe the females to express.

5. I have difficulty interacting on online spaces where there are men because my interactions with them can be direct. As a result, I experience a torrent of abuse from online male users, which is often referred to as a "pile on". I find this very distressing. As a result, I become very agitated when I use social media.

6. One example on my interactions online, which is very personal, I set out below.

7. I am on hormone replacement therapy (HRT). The use of these female hormones is very important for my frontal brain injury as a woman. I am more susceptible to neurocognitive decline, dementia and Alzheimer's disease as a result of my brain injury. I have been advised by my doctors that the medical research suggests that oestrogen and progesterone levels act as a critical factor in the prognosis of traumatic brain injury.

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8. I found the symptoms of perimenopause very difficult to manage with my brain injury and the use of HRT has helped me cope with the effects of perimenopause enormously.
9. I joined an online group for menopause and perimenopause. This was a place where I would read discussions on the topic and find information. It was extremely helpful to me in educating myself about this female condition and how to manage it. The knowledge shared in the menopause group assisted me in understanding how important oestrogen is for women's bodies – for cognitive functioning, for skin, for joints and for vaginal health.
10. There were male users on this platform.
11. I recall reading a comment from one lady who appeared very frustrated about her hot flushes and she asked a question to the effect of "why can't doctors help us, why don't the medical fraternity help us?" I replied with a comment about a research grant of $150,000 for "male menopause". Another comment in that thread said words to the effect of "the symptoms and suffering of menopause would be solved if men experienced it".
12. Shortly thereafter, I discovered that my comment was removed. I received a message from the moderators saying words to the effect of "there is to be none of that language in the group". Thereafter, I was blocked from making further comments on that chat.
13. Recently, there was a shortage of HRT worldwide. I was informed by my pharmacist that it was due to an increase in demand for it. I rang pharmacies from Gold Coast to Brisbane and finally found one box of oestrogen patches in a town far from me.
14. I posted on the menopause group to the effect that "men are stealing our hormones". A few days later I realised I was completely blocked from the group; I could not even see the group if I searched for it.
15. I was upset at being ostracised from the group. I felt I was being excluded from shared knowledge and support of other women in one of the biggest online groups created about the issue. I was sad to be removed because I could have shared my own lived experiences and knowledge with other users and helped someone else.

DocuSigned by:
B76D70BDB76149C...
Deponent

K Deves
Witness

DocuSign Envelope ID: 9D93FF71-7241-42FC-8266-A1DE016DAAF5

16. I wanted to be on a digital space without men because I wanted a place online where I did not have to be guarded where I could have a conversation and not have to worry that it was anything more than an open and honest conversation. I just want a space where I did not have to be hyperalert all the time.

17. I used the Giggle App before it shut down. I still have the App on my phone. I joined specifically because it was a space away from men.

18. My experience using the App was positive and refreshing. Women had open and frank conversations and were very direct with one another in respectful ways. My agitation that I usually experience in participating in online discussions disappeared. Women were encouraging and supportive of one another. There was a very helpful group discussing menopause and perimenopause and the effects of oestrogen of female bodies, which I really enjoyed participating in.

19. I am very disappointed that the App has been shut down.

Sworn by the deponent [redacted]
on 21 October 2023
Before me:

DocuSigned by:
B76D708DB78149C

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
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Date of Lodgment:	23/10/2023 7:38:28 PM AEDT
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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: Carole Ann

Address: [redacted]

Occupation: **Retired primary school and TAFE teacher**

Date: 21 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	**Affidavit of Carole Ann in support of Respondents' defence proceedings affirmed on** 21 October 2023.	1	1
2	**Annexure "A", being copy of Australian Human Rights decision of 25 September 2023**	5	4

I Carole Ann affirm:

1. **I am a lesbian.**
2. **As a lesbian, I particularly want to have spaces to share only with other women.**

Filed on behalf of (name & role of party) Carole Ann, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 **Fax**
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
Carole Ann
38A7BFD7AB7C458...
Deponent

K Deves
Witness

3. I have been an organiser for many years of lesbian social events, conferences, camps, and dances. The events I have organised for lesbians have experienced the incursion of many transgender heterosexual people who say they are lesbian.

4. For example, I have experienced transgender identified males wanting to attend live-in camps with lesbians. Their entry was refused, and the organisation was taken to the Equal Opportunity Tribunal.

5. I have recently applied to hold a lesbian female only event in the Pride Centre in Melbourne. The organisation, Lesbian Action Group, applied for an exemption to hold a female only event. That application was refused by the Australian Human Rights Commission. Annexed to this my affidavit and marked "A' is a copy of the reasons for decision of the Commission dated 25 September 2023

6. These experiences, among others like them, have deeply affected the lesbian community to which I belong. The community has become reluctant to be public with our events. In my experience, same sex attracted lesbians have been forced to find underground spaces and networks almost like we are back "in the closet."

7. As a result, I have become socially withdrawn. The loss of these female only spaces has been emotionally and socially devastating for me. I now feel like an outsider no longer welcome in LGBTIQ+ spaces. This experience has been very isolating for me and has taken a huge toll on my emotional health and wellbeing.

8. I have seen countless examples of women being harassed online. Because of this, I self-exclude from any digital space where men might be, to avoid for myself the trolling and harassment. Because I only go where I know the men will not harass, it has severely limited the scope of my participation in digital life.

9. My experiences have made it absolutely essential for me to have the option of male-free spaces in the digital space so that as a women and a lesbian I can feel I have a place which is safe and where I can participate and share my life experiences with dignity.

DocuSigned by:
Carole Ann
35A79FD7AB7C458

Deponent

K Dewes

Witness

DocuSign Envelope ID: 525277C9-94F0-40CC-BD52-4A1E1BD2F411

Affirmed by the deponent)
[redacted])
on 21 October 2023)
Before me:)

DocuSigned by:
Carole Ann
35A7DFD7AB7C45B

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "A" now produced and shown to Carole Ann **at the time of** affirming her **affidavit on** 21 October **2023 before me:**

K Deves

Lawyer

AUSTRALIAN HUMAN RIGHTS COMMISSION

SEX DISCRIMINATION ACT 1984 (Cth), Section 44(1)

NOTICE OF PRELIMINARY VIEW ON APPLICATION FOR TEMPORARY EXEMPTION: LESBIAN ACTION GROUP

The Australian Human Rights Commission (the Commission) gives notice of its preliminary view regarding an application made by Jean Taylor on behalf of the members of the Lesbian Action Group for a temporary exemption pursuant to s 44(1) of the *Sex Discrimination Act 1984* (Cth) (SDA).

1 THE APPLICATION

1.1 The applicant, Jean Taylor makes this application on behalf of herself and the members of the Lesbian Action Group (the Application).[1]

1.2 The Lesbian Action Group comprises 8 individual members and describes itself in the Application as a not for profit, community based, 'lesbian born female' group, established to address the discrimination experienced by 'lesbians born female'.[2] The aims of the Lesbian Action Group include 'to organise events for the benefit of the Lesbian communities and be politically active on behalf of Lesbians whenever we are challenged and discriminated against'.[3]

1.3 The Lesbian Action Group makes this Application for a five-year exemption to hold regular lesbians born female only events, starting with a 'Lesbians Born Female Only' event to celebrate International Lesbian Day on 15 October 2023.

1.4 The event on 15 October 2023 was proposed to be held at the Victorian Pride Centre in St Kilda. The Victorian Pride Centre declined the booking on the basis that its exclusionary nature was inconsistent with the centre's fundamental purpose and its object of 'facilitating within the Victorian Pride Centre events in support of equality, diversity and inclusion for the LGBTIQ+ community within Australian society'. The Lesbian Action Group wish to proceed with the Application and intend to approach another venue to hold the proposed event if the exemption is granted.

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[1] The members of the Lesbian Action Group are listed at Schedule 1.
[2] Lesbian Action Group, *Application for Temporary Five Year Exemption under the Sex Discrimination Act for a Lesbians Born Female only Event to Celebrate International Lesbian Day*, page 9, available at https://humanrights.gov.au/our-work/legal/exemption-applications-under-sex-discrimination-act-1984-cth
[3] Ibid.

2 PRELIMINARY VIEW OF THE COMMISSION

2.1 The Commission is of the preliminary view that it will not grant the temporary exemption sought by the Lesbian Action Group for a period of five years:

- to host the proposed event on 15 October 2023 to celebrate International Lesbian Day and restrict attendees, organisers and advertising of the event to lesbians born female only
- thereafter to hold regular lesbians born female only events.

3 CONSIDERATION AND REASONS

3.1 In reaching its preliminary view, the Commission has considered the following:

3.1.1 the Application and submissions by the Lesbian Action Group

3.1.2 all further information provided by the Lesbian Action Group in relation to the Application

3.1.3 submissions from individuals

3.1.4 submissions from organisations and interested parties.

3.2 With the exception of the individual submissions, many of these documents are available on the Commission's website at: https://humanrights.gov.au/our-work/legal/exemption-applications-under-sex-discrimination-act-1984-cth

3.3 In reaching its preliminary view, the Commission had regard to the following:

3.3.1 the terms and objects of the SDA

3.3.2 the Commission Guidelines: *Temporary Exemptions under the Sex Discrimination Act 1984* (Cth) 2009.

3.4 The history of the Application and the reasons for the Commission's preliminary view are set out below.

4 THE COMMISSION'S PROCESS

4.1 Following receipt of the Lesbian Action Group's Application, the Commission published the Application on its website and commenced a two-week public consultation period. It did this by:

- publishing the Application and additional information on its website and calling for public submissions on its merits
- writing to the State and Territory anti-discrimination bodies and Equal Opportunity Commissions, inviting them to make submissions

- writing to a number of interested parties, inviting them to make submissions.

4.2 The Commission received 236 submissions during its public consultation, consisting of submissions from 31 organisations and 205 individuals.

4.3 Of the submissions from organisations, 15 were in favour of granting the exemption and 14 opposed granting the exemption, including a joint submission by 15 different organisations.[4] Two organisations did not express a view, either in favour of or in opposition to the exemption.

4.4 Of the submissions from individuals, 123 were in favour of granting the exemption and 82 opposed granting the exemption.

4.5 The Commission received a submission from Equal Opportunity Tasmania, referring to the Tasmanian Anti-Discrimination Commissioner's decision to refuse an exemption application by Ms Jessica Hoyle and LGB Alliance Australia. The decision was confirmed on review by the Tasmanian Civil and Administrative Tribunal.[5] The Victorian Equal Opportunity and Human Rights Commission and Anti-Discrimination NSW declined to make submissions. No responses were received from the other State and Territory anti-discrimination bodies and Equal Opportunity Commissions.

4.6 A list of the submissions from organisations that agreed to the publication of their submission is contained in Schedule 2 to this preliminary view. These submissions are available on the Commission's website.

4.7 The Commission has not published the individual submissions on its website due to their volume and the similarity of issues to those raised in the submissions from organisations. The Commission notes that the individual submissions received both in support of and against the exemption, appear to reflect submitters from a variety of cultural backgrounds, ages, occupations, gender identities and sexual orientations.

4.8 The Commission has considered all the materials referred to above in reaching its preliminary view in relation to the Application.

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[4] A list of the organisations included in the joint submission is at Schedule 2.
[5] *Jessica Hoyle and LGB Alliance Australia (Review of Refusal of an Application for Exemption)* [2022] TASCAT 142.

5 PROCEDURAL FAIRNESS CONSIDERATIONS

5.1 Consistent with fundamental principles of procedural fairness, the Commission considers that the process outlined above has provided both the applicant and the public with an adequate opportunity to comment on this Application.

5.2 The Lesbian Action Group and the public will also be provided with a further opportunity to respond to this preliminary view before the Commission makes its final decision in this matter.

6 LEGISLATIVE REGIME AND THE COMMISSION'S POWER TO GRANT EXEMPTIONS

The SDA

6.1 The SDA makes it unlawful to discriminate on the grounds of sex, sexual orientation, gender identity and intersex status (amongst other grounds) in a range of areas of public life.

6.2 Most relevantly for the Application, the SDA makes discrimination unlawful in relation to the provision of goods, services and facilities. Section 22 of the SDA provides:

> **Goods, services and facilities**
>
> It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's sex, sexual orientation, gender identity, intersex status, ... :
>
> (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;

6.3 The SDA provides for a number of permanent exemptions to the SDA, including for voluntary bodies. Section 39 provides:

> Nothing in Division 1 or 2 renders it unlawful for a voluntary body to discriminate against a person, on the ground of the person's sex, sexual orientation, gender identity, intersex status, ... in connection with:
>
> (a) the admission of persons as members of the body; or
>
> (b) the provision of benefits, facilities or services to members of the body.

6.4 The permanent exemption under s 39 is limited to the admissions of persons as members of the voluntary body and relevantly, the provision of benefits, facilities or services to those members.

6.5 The Lesbian Action Group may fall within the definition of a 'voluntary body' under the SDA.[6] However, the Lesbian Action Group is not seeking an exemption to discriminate in connection with the admission of persons as members, or the provision of benefits, facilities or services only to its members, as permitted by s 39 of the SDA. Rather, the Lesbian Action Group seeks to hold public events restricted to 'lesbians born female' and to advertise those events 'widely and publicly', beyond their membership base. The Commission is of the view that the s 39 exemption does not apply in these circumstances, where the provision of 'benefits, facilities or services' is proposed to extend to persons beyond members of the Lesbian Action Group.

The Commission's power to grant exemptions

6.6 Section 44 of the SDA provides the Commission with the power to grant exemptions by instrument in writing, from the operation of a provision of Division 1 or 2 of the SDA as specified in the instrument. The power is enlivened on application by a person, persons or class of persons, as the case may be.[7]

6.7 An exemption may be granted subject to terms and conditions specified in the instrument, and may be expressed to apply only in particular circumstances, or in relation to particular activities, as specified in the instrument.[8] Exemptions are to be granted for a specified period not exceeding five years.[9] It is not unlawful for a person to act in accordance with an exemption while the exemption remains in force.[10]

6.8 In practical terms, the granting of a temporary exemption means that the activities or circumstances covered by it cannot be the subject of a successful complaint under the SDA.

6.9 Notwithstanding the few express limitations referred to above, the Commission's power to grant exemptions from compliance with the SDA is otherwise unconfined. Consistent with established principles of administrative law, the Commission's statutory discretion must be exercised in conformity with the subject matter, scope and purpose of the legislation under which it arises: *R v Australian Broadcasting Tribunal; Ex parte 2 HD Pty Ltd* (1979) 144 CLR 45 at 49; *FAI Insurances Ltd v Winneke* (1982) 151 CLR 342 at 368; *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 40; *O'Sullivan v Farrer* (1989) 168 CLR 210 at 216; *Oshlack v Richmond River Council* (1998) 193 CLR 72 at [22], [31].

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[6] Section 4, SDA.
[7] Sections 44(1) SDA.
[8] Sections 44(3)(a)–(b), SDA.
[9] Section 44(3)(c), SDA.
[10] Section 47, SDA.

6.10 The objects of the SDA are stated in s 3 to include:

(a) to give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and to provisions of other relevant international instruments; and

(b) to eliminate, so far as is possible, discrimination against persons on the ground of sex, sexual orientation, gender identity, intersex status, ... in the areas of ... the provision of goods, facilities and services, ... ;
...

(c) to eliminate, so far as is possible, discrimination involving sexual harassment, and discrimination involving harassment on the ground of sex, ... in other areas of public activity; and
...

(d) to promote recognition and acceptance within the community of the principle of the equality of men and women; and

(e) to achieve, so far as practicable, substantive equality between men and women.

6.11 By conferring an exemption power on the Commission, the Australian Parliament has clearly contemplated that some discriminatory conduct might be justified and that, in certain circumstances, derogation from the terms of the SDA is permissible.

6.12 However, this exemption power must be interpreted in light of the objects of the SDA and the legislative scheme as a whole. The SDA defines discrimination and makes discrimination on the grounds of sex, sexual orientation, gender identity and intersex status unlawful. The grant of an exemption pursuant to s 44 of the SDA has the effect of taking relevant conduct out of the SDA's prohibitions and denying redress to a person who is affected by that conduct for the period covered by the exemption. The effect of granting a temporary exemption is to qualify the norms of conduct that the SDA seeks to establish.

6.13 As the SDA already provides for permanent exemptions and defences that render any alleged discrimination not unlawful, and because the Commission's exemption power must be interpreted in light of the objects of the SDA, the Commission considers that temporary exemptions should not be granted lightly. In exercising its statutory discretion, the Commission must have regard to the circumstances of each individual case and balance the relevant factors. Given the significant legal consequences for potential complainants, the Commission must be satisfied that a temporary exemption is appropriate and reasonable, and persuasive evidence is needed to justify the exemption.

6.14 The Commission issued guidelines in 2009 concerning the way in which it proposes to exercise its power under the SDA. These provide that the Commission will consider:

- whether an exemption is necessary
- whether granting an exemption would be consistent with the objects of the SDA
- an applicant's reasons for seeking an exemption
- submissions by interested parties
- all relevant provisions of the SDA
- any terms or conditions subject to which an exemption might be granted.

7 PRELIMINARY VIEW TO REFUSE EXEMPTION

The Application

7.1 The Lesbian Action Group seek an exemption from the SDA on the following terms:

- To only invite and include anyone who is a 'Lesbian Born Female' to the event to celebrate International Lesbian Day on 15 October 2023.
- 'To meet on a regular basis as Lesbians Born Female for our own well-being in order to exchange information, hold workshops around a range of issues pertinent to Lesbians and celebrate our many achievements.'
- 'To consolidate and expand our social and political Lesbian networks.'[11]
- 'To recognise that Lesbians have been building a strong and a specifically Lesbian culture and we have particular needs as Lesbians that need to be discussed and celebrated in a Lesbian born female only environment.'
- 'To be able to advertise widely and publicly in order to make it known to Lesbians who are socially isolated, particularly in rural areas, Lesbian with disabilities and Lesbians from linguistically diverse cultures that exclusive Lesbian events are being organised for their benefit.'[12]

7.2 The Application states the exemption would exclude anyone who was not a Lesbian Born Female, including, 'Heterosexual, Bisexual and Gay males,

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[11] Lesbian Action Group, *Application for Temporary Five Year Exemption under the Sex Discrimination Act for a Lesbians Born Female only Event to Celebrate International Lesbian Day*, page 5, available at https://humanrights.gov.au/our-work/legal/exemption-applications-under-sex-discrimination-act-1984-cth.
[12] Ibid, page 6.

Heterosexual and Bisexual females, Transgender people and Queer plus people'.[13]

7.3 Details of the event proposed on 15 October 2023 include:

- 'an all day fun-filled culturally appropriate lesbians born female only event'
- 'entertainment provided by lesbian writers reading their work'
- 'speakers on a range of subjects'
- 'music, singing, skits, dancing, food and refreshments'[14]

7.4 The Application refers to exclusive lesbian events being held in the past since the early 1970s and provides some details of these. It states that 'many thousands of lesbians benefited from the sense of pride, recognition and wellbeing that a large, well published, public lesbian specific gathering encourages in the participants'.[15]

7.5 The Application states that in 2003 the organisers of the 'Lesbian Festival 2004', faced opposition from the transgender community due to their gatherings being held exclusively for lesbians born female.[16]

7.6 An exemption was sought from the then *Equal Opportunity Act 1995* (Vic) to enable the applicants to advertise and organise the National Lesbian Festival and Conference 2004 for lesbians born female only. The Victorian Civil and Administrative Tribunal granted the exemption on the basis of three attributes (sex, sexual orientation and gender identity) from sections 13, 15, 49 and 195 of the *Equal Opportunity Act 1995* (Vic).[17] Shortly afterwards, the exemption was revoked on application by 'Australian Woman Network' to the Tribunal.[18]

7.7 The Lesbian Action Group states that since then only private lesbian meetings and gatherings have been held over the past 20 years to avoid legal challenges by the transgender community. They say that this is the reason why an exemption is necessary, to enable lesbians to advertise events and meet publicly without fear of litigation and discrimination.[19]

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[13] Ibid, page 9.
[14] Ibid.
[15] Ibid, page 2.
[16] Ibid.
[17] Victorian Government Gazette No. G37 dated 11 September 2003, page 2382.
[18] Victorian Government Gazette No. G41 dated 9 October 2003, page 2596.
[19] Lesbian Action Group, *Application for Temporary Five Year Exemption under the Sex Discrimination Act for a Lesbians Born Female only Event to Celebrate International Lesbian Day*, page 4, available at https://humanrights.gov.au/our-work/legal/exemption-applications_under-sex-discrimination-act-1984-cth.

7.8 On 8 August 2023, the Commission requested further information from the Lesbian Action Group including the reasons why the exemption was reasonable and necessary.

7.9 On 9 August 2023, the Lesbian Action Group's response included the following reasons:

- lesbians born female still experience discrimination, including in relation to sexuality
- not wanting or not being able to discuss personal health-related issues in front of people who are not lesbians born female or sharing personal stories about domestic violence
- 'getting together with like-minded and like-bodied lesbians born female to celebrate our achievements'
- to 'meet freely and without being abused for wanting to do so'
- 'to participate in and listen to lesbian concerts, play and sing our Lesbian music, organise and attend workshops on a plethora of pertinent topics, talk with each other, exchange views, opinions, personal stories, laugh together and dance'
- a 5 year exemption was applied for to hold ongoing events for lesbians born female into the foreseeable future: 'once the lesbians born female community are given an exemption to hold our own events, we won't want to stop at one'.[20]

Public consultation

7.10 The Commission received 236 submissions in response to the Application. The Commission heard from both peak organisations and individuals on the issues raised by the Application.

Issues raised in submissions in favour of the exemption

7.11 Most of the submissions in favour of granting the exemption emphasise the importance of preserving spaces for lesbian women only based on their biological sex – to be able to meet, assemble, speak and organise gatherings together.

7.12 These submissions state that transgender women cannot be women by virtue of their gender identity and accordingly cannot identify as lesbians.[21] They consider lesbians are women exclusively by virtue of their biological sex at birth

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[20] Above n 17, pages 1 and 2.
[21] LGB Alliance Australia, Lesbian Rights Australia, Visible Lesbian Group, Affiliation of Australian Women's Action Alliances, Western Australian Women's Action Alliance, Queensland Women's Action Alliance.

who are 'same-sex attracted', and that same-sex orientation is also a protected attribute under the SDA.[22] They state that there are many other event and advocacy opportunities for transgender women.[23]

7.13 LGB Alliance Australia submitted:

> It is very reasonable that lesbians would wish to rebuild a community in order to socialise and find partners and friends in a safe, welcoming, in-person space. ...
>
> Lesbians are women who are attracted to other women only – i.e. female homosexuals. This attraction is experienced on the basis of sex; not on the basis of self-declared 'gender identity'. A biological male, regardless of identity or legal status, is still a male, and therefore outside the romantic and sexual pool for lesbians. It should not be deemed 'discriminatory' or 'hateful' to recognise this fact. Lesbians should not be discriminated against because they do not hold male persons sexually compatible or attractive; this is a form of homophobia. ...

7.14 The submissions express concern that the protections against gender identity discrimination have threatened the ability of lesbians to gather and organise, enjoy a sense of community and hold 'lesbian-only events'.[24]

7.15 Lesbian Rights Australia submitted:

> Being unable to exclude males, heterosexuals and bisexuals from lesbian events has resulted in such events being overrun by these far larger demographics. ...
>
> Regardless of whatever the Sex Discrimination Act's purpose is these days, it's actual effect has been to restrict lesbians from gathering, organising, finding community and knowing we're not alone.

7.16 Some submissions say there is a risk of violence or abuse if events are not restricted as requested in the Application.[25] LGB Alliance Australia states:

> Women who choose to socialise in a lesbian-only space are making it clear that they want to be around other females only, in an intimate environment: a space where a woman can seek a sexual partner or be openly affectionate with an existing partner. Entering such a space can be a vulnerable, deeply personal step for a woman. For some women - particularly those who are newly 'out' or who have suffered sexual abuse or domestic violence - it takes great courage to enter that environment. When a male knowingly intrudes into that lesbian

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[22] Women's Rights Network.
[23] Affiliation of Australian Women's Action Alliances.
[24] Feminist Legal Clinic, Lesbian Rights Australia, Lesbian Bill of Rights International, IWD Meanjin Brisbane, Affiliation of Australian Women's Action Alliances, Victorian Women's Guild.
[25] Lesbian Rights Australia, Affiliation of Australian Women's Action Alliances and LGB Alliance Australia.

> space, he is behaving aggressively and crossing a clear boundary that women have set. In many instances, his behaviour could reasonably be considered an act of sexual harassment.

7.17 The submissions highlight that lesbians in Australia have faced structural and entrenched discrimination, both historically and in the present day.[26] In particular, a number of individual submissions were received from older lesbians who describe their experience advocating for lesbian rights in the past, their concern over the erosion of 'women's based rights' in favour of gender identity protections, and the need to support younger 'lesbians born female'.

7.18 The individual submissions also describe the lack of access to exclusive lesbian only spaces in the community compared with what they consider to be the ability of other groups such as gay men and transgender persons to meet exclusively without discrimination.

7.19 LGB Alliance Australia submitted:

> The lesbian-only events of past decades enabled women to engage in a rich variety of cultural and political activities and to build an extensive, cohesive community. But recently, that vibrant Victorian lesbian community has virtually vanished. For lesbians who wish to gather nowadays, covert private friendship groups are the only option.

Issues raised in submissions opposing the exemption

7.20 Many of the submissions opposing the exemption (both from individuals and organisations) state that the Lesbian Action Group does not represent the majority of lesbians who are supportive of trans lesbians, bisexual and queer cisgender women and rights-based inclusion regardless of other intersecting identities. These submissions considered the Application to be divisive, seeking to create sub-categories of women.[27]

7.21 Q+Law submitted:

> It is important to note that lesbians are not a homogenous group. The lesbian community as a whole is made up of intersectional experiences and diversities including but not limited to race, religion, socioeconomic background and gender. Q+Law supports rights-based inclusion and seeks to improve the well-being of lesbians regardless of other intersecting identities. ...
>
> Q+Law assumes the exemption is sought to allow the applicant to discriminate against all people who are not cis-gendered women sexually attracted to only

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[26] Lesbian Rights Australia and Visible Lesbian Group.
[27] Q+Law, Equality Australia joint submission, Melbourne Bisexual Network, Rainbow Rights Watch.

other cis-gendered women. Therefore, the exemption seeks the right to be able to differentiate between sub-categories of women.

> Q+Law submits that there are no distinctions between subcategories of women in the CEDAW or the [SDA]...Women who have intersex variations and/or are transgender are women under both instruments. They are also the subcategory of women who experience the most discrimination, exclusion, and marginalisation within society... In the interest of preserving the Act's purpose, applications that seek to further discriminate against some sub-categories of women should not be granted an exemption.

7.22 Most of the submissions say that it is not reasonable to make distinctions between women based on their cis or trans experience, or among same-sex attracted women based on the exclusivity of their same-sex attraction for the type of event proposed to be held by the Lesbian Action Group.[28]

7.23 The joint submission received from Equality Australia on behalf of 15 organisations states:

> while we agree that is important and beneficial for lesbians to be able to gather as a community to celebrate their culture and discuss issues that affect their community, it is not appropriate or necessary to exclude same-sex attracted women who are transgender, bisexual and queer in order to do so.

7.24 The submissions also say that the exemption would further perpetuate discrimination against same-sex attracted transgender women, a group that experiences high levels of discrimination, harassment and social exclusion.[29]

7.25 Some submissions state that it is unclear how the Lesbian Action Group proposes to make the distinctions at the proposed event in order to exclude persons that are not cisgender lesbians, or exclusively attracted to women. These submissions state that it is possible that the organisers may be required to interrogate the physical sex characteristics of an attendee or the exclusivity of a woman's sexual attraction to other women as a condition for participation in the event. [30]

7.26 Q+Law states:

> LAG has failed to explain how it intends to enforce the exemption. Whether or not a lesbian is cisgender, transgender, intersex, or gender nonconforming cannot be ascertained based on public physical presentation alone. Women who were assigned female at birth have diverse bodies, sex characteristics, voices, frames, statures and so on. It is impossible to tell who is 'born female'

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[28] Q+Law, Equality Australia joint submission.
[29] Equality Australia joint submission, Rainbow Rights Watch.
[30] Q+ Law, Equality Australia joint submission, Rainbow Rights Watch, Victorian Trades Hall Council.

and who is not without intrusion on an individual's privacy, bodily integrity, and dignity.

7.27 The joint submission received from Equality Australia states that this may invite questions about a person that may involve conduct which could amount to sexual or sex-based harassment.

7.28 Individual submissions also raise the difficulty for transgender partners of cisgender lesbians who would also be excluded from attending the proposed event.

7.29 The submissions also identify the broad nature of the exemption applied for and point out that the Lesbian Action Group seek a temporary exemption for a 5-year period to hold further events, however the circumstances and activities intended to be covered are not specified in detail.

Consideration and Reasons for Preliminary View

7.30 The Lesbian Action Group seeks an exemption for five years to hold regular publicly advertised 'lesbians born female only events' starting with a 'Lesbians Born Female Only' event to celebrate International Lesbian Day on 15 October 2023. The Application states that the Lesbian Action Group is seeking to exclude from these events 'Heterosexual, Bisexual and Gay males, Heterosexual and Bisexual females, Transgender people and Queer plus people.'

7.31 It appears that restricting access to a public event to celebrate International Lesbian Day (and similar public events in the future) in the manner proposed by the Lesbian Action Group would amount to unlawful discrimination under the SDA on the ground of at least sexual orientation and gender identity in the provision of goods and services (s 22 SDA). The permanent exemptions to the SDA do not appear to apply to these circumstances.

7.32 The Commission does note, however, that the s 39 exemption for voluntary bodies in the SDA would likely permit the Lesbian Action Group to discriminate in connection with the provision of benefits, facilities or services to its own members. That is, the Lesbian Action Group would likely not be prohibited by the SDA from holding events for members of its group. The Lesbian Action Group would also not be prohibited by the SDA from holding events in private, as the SDA only regulates discrimination in certain areas of public life.

7.33 The Commission has considered the applicant's reasons for seeking the exemption. The Commission has considered the submissions received both for and against the grant of this exemption. This is a complex issue where opinions are divided.

7.34 The Commission acknowledges that lesbians in Australia have faced structural and entrenched discrimination, both historically and in the present day.[31] The Commission agrees that it may be important and beneficial for lesbians to gather together as a community to celebrate their culture and discuss issues of special relevance to their community.

7.35 The Commission recognises that many of the submissions in support of the Application seek to preserve spaces for lesbian women based on biological sex at birth, and these submissions express concern that the protections against gender identity discrimination have threatened their ability to do so.

7.36 However, as set out above, the Commission considers that temporary exemptions should not be granted lightly. The grant of an exemption has the effect of taking relevant conduct out of the SDA's prohibitions and denying redress to a person who is affected by that conduct for the period covered by the exemption. The effect of granting a temporary exemption is to qualify the norms of conduct that the SDA seeks to establish.

7.37 In exercising its statutory discretion, the Commission must have regard to the circumstances of each individual case and balance the relevant factors. Given the significant legal consequences for potential complainants, the Commission must be satisfied that an exemption is appropriate and reasonable, and persuasive evidence is needed to justify the exemption.

7.38 The Commission has considered the nature of the exemption sought in this Application. The Lesbian Action Group seeks an exemption to hold an event to celebrate International Lesbian Day but to exclude same-sex attracted women who are transgender, bisexual and queer for whom that celebration may be particularly significant. The Application sets out a range of reasons for seeking an exemption including:

- 'to participate in and listen to lesbian concerts, play and sing our Lesbian music, organise and attend workshops on a plethora of pertinent topics, talk with each other, exchange views, opinions, personal stories, laugh together and dance'
- not wanting or not being able to discuss personal health-related issues in front of people who are not lesbians born female or share personal stories about domestic violence
- to 'meet freely and without being abused for wanting to do so'.

7.39 These reasons suggest that the event is intended to be a community social event, involving singing, dancing, celebrations and the discussion of ideas. It

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[31] Lesbian Rights Australia and Visible Lesbian Group.

aims to build a sense of pride, recognition and wellbeing amongst the community.

7.40 The Commission notes that some submissions in favour of the exemption refer to the risk of violence or harassment if the event is not restricted as requested in the Application. These submissions were not supported by compelling evidence. The risk of violence or harassment was not part of the Application made by the Lesbian Action Group although reference was made to discrimination experienced by lesbians who publicly speak out, and the need to meet with each other to discuss matters of importance for their own well-being, including only wanting to share personal stories about health issues or domestic violence between lesbians born female.

7.41 The Commission is not persuaded it is appropriate and reasonable to:

- make distinctions between women based on their cisgender or transgender experience, or among same-sex attracted women based on the exclusivity of their same-sex attraction at an event of this kind, or
- exclude same-sex attracted women who are transgender, bisexual and queer from an event of this kind.

7.42 The Commission notes that the grant of this exemption may lead to the further exclusion of and discrimination against same-sex attracted transgender women. Transgender women are a group who have and continue to experience discrimination, harassment and social exclusion.[32]

7.43 The Application does not describe how the Lesbian Action Group proposes to make distinctions to limit the event, and any future events, to 'lesbians born female'. Limiting participation in the manner proposed may involve questions about an attendee's physical sex characteristics or the exclusivity of their same-sex attraction, which could reasonably be expected to intrude on an individual's privacy and, in some cases, has the potential to amount to sexual or sex-based harassment.

7.44 The exemption is sought for a period of five years to permit the Lesbian Action Group to hold a 'Lesbians Born Female Only' event to celebrate International Lesbian Day on 15 October 2023, and to hold similar events restricted to 'lesbians born female' in the future. The circumstances of these future events intended to be covered by the exemption are not specified in detail.

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[32] Equality Australia joint submission, Rainbow Rights Watch, Melbourne Bisexual Network.

7.45 The Commission does not consider it reasonable to grant a five-year exemption in such broad terms without details of the events and the opportunity for submissions from interested parties to engage with the question of whether it is reasonable in the circumstances to discriminate on the basis of sexual orientation and gender identity at these events.

7.46 On balance, for the reasons outlined above, the Commission's preliminary view is that it is not persuaded that it is appropriate and reasonable to grant the exemption to the Lesbian Action Group.



Signed by the President, Emeritus Professor Rosalind Croucher AM on behalf of the Commission.

25 September 2023

SCHEDULE ONE

The Lesbian Action Group is comprised of eight members:

Jean Taylor
Carole Ann
Nicole Mowbray
Sarah Yeomans
Jeanette Carrison
Elizabeth Matthews
Elizabeth Smith
Celia Sexton

SCHEDULE TWO

SUBMISSIONS RECEIVED

The Commission received submissions from the following organisations:

- Affiliation of Australian Women's Action Alliances (AAWAA)
- Aleph Melbourne
- Antypical Hair & Gallery
- Equal Opportunity Tasmania
- Euphoria Social
- Fair Game Australia
- Feminist Legal Clinic
- IWD Meanjin
- Lesbian Bill of Rights International
- Lesbian Rights Australia
- LGB Alliance Australia
- LGB Tasmania
- Victorian Commissioner for LGBTIQ+ Communities
- Mamma Chen's
- Melbourne Bisexual Network
- Q+Law
- Queensland Women's Action Alliance
- Rainbow Rights Watch
- Renters and Housing Union (RAHU)
- Scottish Lesbians
- Triple Bi-Pass
- Victorian Pride Centre
- Victorian Women's Guild
- VISIBLE Lesbian Group
- Vixen
- Victorian Trades Hall Council
- Western Australian Women's Action Alliance
- Women's Rights Network Australia

The Commission received a joint submission from:

- Australian GLBTIQ Multicultural Council (AGMC)
- Drummond Street Services
- Dykes on Bikes Melbourne
- Equality Australia
- Human Rights Law Centre
- LGBTI Legal Service Inc
- Melbourne Bisexual Network

- Midsumma
- Parents of Gender Diverse Children
- Rainbow Community Angels
- Switchboard
- Trans Justice Project
- Transcend Australia
- Transgender Victoria
- Zoe Belle Gender Collective

Copies of all submissions (except where consent was not obtained) are available on the Commission website at: https://humanrights.gov.au/our-work/legal/exemption-applications-under-sex-discrimination-act-1984-cth

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Registrar

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Form 59
Rule 29.02(1)
Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: Louise Carrigg

Address: [redacted]

Occupation: **Retired teacher**

Date: 21 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	**Affidavit of Louise Carrigg in support of Respondents' defence proceedings affirmed on 21 October 2023.**	1	1

I Louise Carrigg affirm:

1. **I had my children in my early 20s. I had two sons with my first husband. My elder son is very disabled.**

Filed on behalf of (name & role of party) Louise Carrigg, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 **Fax**
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
1162E481D77E4C6
Deponent

K Deves
Witness

2. Raising the boys, I was parenting on my own. I would seek out the company of other women for support. For example, I was in playgroup with other mothers, mothers' groups and visited toy libraries to seek out the company of other mothers.

3. In my experience, in these female spaces the women were warm, accepting, and encouraging. In my experience, other women understand women and if women are upset and they will comfort you. Having an arm put around you by another woman is very different from when a man does it: I feel safe and supported.

4. In my experience, the connection with other women who are mothers is unique to females: men do not give birth. In my experience, my connection with other women is something I have never had with men. For me, connecting with other women is like being in an enclave where people from a unique culture gather. I feel comfortable and accepted when I am with women.

5. When I was younger, I would very often receive unwelcome sexual advances from men. One example, I was on the preschool committee, and various men would say things like "If you weren't with so-and-so, I'd be with you", They would say this even though I had absolutely no interest and had shown absolutely no interest.

6. My second husband raped me. Following that experience, I completely retreated from public life. I sought out female only spaces to recover from the trauma of the rape. I need male-free spaces because I find males intimidating. I do not trust men.

7. In my experience, males will talk over women which stops me participating. In a women's only group, I feel I can speak, but when a male is present, I am so nervous.

8. I am frightened of men. For example, I sew for people. That is one way I try to stay connected. I have had a few men come to me to do sewing. One of them was creepy. I was so panicked I rang my son to come and check on me.

9. Another example, when I have meals on wheels delivered, and I want the delivery person to be a woman because I live alone. In my mind, I feel it is less likely another woman would tell anyone I live alone, and a woman will not

hurt me. These are the sorts of things I think about following the trauma I experienced.

10. Following the divorce from my second husband, I came out as lesbian.

11. When I first moved to Ballarat it was because of Covid lockdowns. I contacted the rainbow group in the area and asked if they held female only meetings. I was told very clearly, they were "inclusive" and that my views regarding female only meetings were not inclusive. I was removed from their group.

12. For me as a lesbian, the loss of female only spaces has been devastating.

13. In my experience, if lesbians hold a gathering in public, there will always some men who show up.

14. This has absolutely limited my public life.

15. After my eldest son was born, I became an alcoholic. I have been in recovery for two and half years.

16. At the rehab there was a women's cottage, and the men were in the main building. I felt safe with the women, but I did not feel safe with the men. I would have left rehab if a man had been inserted into the women's cottage.

17. As part of my recovery, I joined the Ballarat Women's Shed. The community of women at the shed was an important part of my recovery. For my recovery, I need to be able to speak about the terrible experiences I have had. I cannot do it in front of men.

18. Two trans identified males now belong to the Women's Shed in Ballarat. Because of my inherent fear of men, I no longer attend the Women's Shed.

19. I do not go to the women's AA meetings on Zoom because there have been men going to women's only meetings. I do not go to those meetings anymore, because of the chance of men attending.

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Affirmed by the deponent [redacted])
on 21 October 2023)
Before me:)

DocuSigned by:
1162E481D77E4C8

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: Azure Rose Rigney

Address: [redacted]

Occupation: **Advocacy Manager and Director for Maternity Choices Australia**

Date: **22 October 2023**

Contents

Document number	Details	Paragraph	Page
1	**Affidavit of Azure Rose Rigney in support of Respondents' defence of proceedings sworn on 22 October 2023.**	1	1

I, Azure Rose Rigney, affirm

1. **I am a mother of three and the Advocacy Manager, QLD President and Director of Maternity Choices Australia** (Maternity Choices)**.**

Filed on behalf of (name & role of party) Azure Rose Rigney, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by: AE4524FD525C470

Deponent

K Deves

Witness

2. I was in the Australian Defence Forces for ten years. At the time my children were born, Defence Department policy did not support funding for home birth. I required a home birth for the births for my three children, all of which were low risk and short labours lasting less than an hour for each. I was successful in changing the Defence Department policy to permit female Defence Force personnel funding for continuity of midwifery care throughout pregnancy and home-births. This was in addition to clinical care, which was already the subject of Defence Funding.

3. Maternity Choices is an advocacy and support group for women who become pregnant, give birth and access maternity care services in Australia with a view to assisting in the improvement of equity of access in and the quality of maternity outcomes for Australian women. Maternity Choices is run entirely by unpaid volunteers, we receive no government funding or grants. Our objectives are often achieved by advocacy to government and government departments and health services for improved maternal choices for women in maternal care pathways and to ensure better maternal outcomes.

4. Maternity Choices provides online forums for advocacy, discussion, support and information for women in maternal circumstances. I am responsible for moderating these forums.

5. There have been numerous occasions when these public social media accounts have experienced a "pile-on" from people, particularly, male "transactivists". For example, posts regarding the importance of sex-based language in maternity care, and the need to remove degendered language such as "birthing person", "gestating parent", "chest feeder", "bleeder" or "menstruator" and reestablish maternal language such as mother, breastfeeding, pregnant woman or expectant mother in legislation and official government and departmental documents. The impetus for this advocacy comes from the fact that many women accessing maternal services, especially in the clinical space, are already experiencing treatment which traumatises and displaces them. In my experience, the erasure of sex-based language works to displace them further.

6. Another example of when we receive abuse is when we publish or share articles that use words that suggest there are uniquely female experiences in

that these are issues only women experience. For example, we shared an article about the evidence of the benefits of breastmilk and breastfeeding and the societal implications of not supporting the mother-baby dyad. Another example is when we discuss vaginal cutting without consent or unwanted and unnecessary anal exams during pregnancy or childbirth. The responses include abusive and disparaging comments, for example, words to the effect of "you shouldn't have this platform if you are going to spread hate"

7. Maternity Choices also has private Facebook groups that a user must apply to access. These groups service a particular location, are private and intimate spaces that provide support for women experiencing various maternal issues.

8. I moderate the requests for membership of these groups. If a person applies to join who has an obviously male name or male profile picture, he is rejected. This is because the women in these groups discuss intimate and private aspects of their pregnancies, deliveries and postnatal experiences. For example, cracked nipples, vaginal prolapse, intimate details of their natal and post-natal sex lives, urinary and faecal incontinence, breastfeeding, miscarriage and stillbirth, stories of trauma, birthing trauma, sexual trauma, distress and violation in provision of maternal care, particularly in the birthing suite. I have observed women disclose that they feel they have nowhere else to go to disclose or to complain about these experiences, that they have been left grief-stricken, vulnerable and heartbroken.

9. I have observed women also share stories of domestic violence including during pregnancy, delivery and post-natal, as well as women who are victims of sexual assault and are triggered by maternal care they receive, or who have been assaulted or raped during pregnancy and delivery, not only by lay men but also medical practitioners.

10. In my experience in advocating and supporting these women, the women who access our services join and participate in the expectation that the services are female only. Many women in the groups who share their experiences, if they knew males were present in the private group, would not share their experiences and would self-exclude. Maternity Choices enjoy a level of trust

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AE4624FD526C470
Deponent

K Deves
Witness

from the women who use the private groups because we have led them to believe that they these digital spaces are female only.

11. I am familiar with the Giggle App and the process by which it sought to create a female only space, that is, relying on AI to determine the sex of a person based the assessment of a real-time "selfie" and then human eyes assessing the selfie following admission. I am also aware that fingerprints between males and females are different and implementing an AI fingerprint assessment technology would provide an additional layer of privacy to the users of Maternity Choices private forums. Maternity Choices would welcome implementing such a model if it were to be available and affordable to ensure the privacy and dignity of its membership.

Affirmed by the deponent [redacted]
On 22 October 2023
Before me:

DocuSigned by:
AE4624FD529C470

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Victoria Bermudez**

Address: [redacted]

Occupation: Software Developer

Date: 22 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Victoria Bermudez in support of Respondents' defence of proceedings affirmed on 22 October 2023.	1	1

I, Victoria Bermudez, say on affirm:

1. I am a software developer in Buenos Aires, Argentina. English is my second language.

Filed on behalf of (name & role of party) Victoria Bermudez witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

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Deponent

K Deves
Witness

2. I joined the Giggle App about three years ago, before the pandemic. I wanted to join the App because I knew it was a female-only mobile application. My job in IT is dominated by men and I wanted to be friends with other women. Since I was very young, from about 12 years old, my education, and later my career, were in a very male-dominated industry. While using the App, I met a few women and made female friends with whom I am still in contact.

3. I have had a bad experience with men online. I have received a lot of unsolicited male attention. I have been sent a lot of "dick pics" and had men harass me sexually online. I have been insulted and abused by men online.

4. I joined Giggle because it was an App created for women. I enjoyed using it. I became a regular User accessing the App on frequent basis as I enjoy the experience of being with other women discussing various issues. I interacted with other Users on the App, I would publish posts and they would comment, or the other way around.

5. I loved being able to chat to women only. I could post a picture in the knowledge that men would not privately message me after. When it is a women only environment I feel like I can be more of myself than when there are men present.

6. I never needed to report other Users as my experience was very good. I did not see women insulting other women, it was a very peaceful experience. This was important to me because I have not seen this on any other social platform.

Affirmed by the deponent
[redacted]
On 22 October 2023
Before me:

DocuSigned by:
55E9FC87BD6D4DC

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

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Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Anaum Fathima Syed**

Address: [redacted]

Occupation: University student

Date: 23 October 2023 Sworn

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Anaum Fathima Syed in support of Respondents' defence of proceedings sworn on 21 October 2023.	1	1
2	Annexure "**AFS1**", being copy of screenshots	9	4

I, Anaum Syed, say on oath/affirm:

1. I am a 19-year-old student.

Filed on behalf of (name & role of party) Anaum Fathima Syed, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
[signature]
186EAE34BD14454
Deponent

K. Deves
Witness

2. I have been raised in and practise the Muslim faith and its culture. My family is very religious. I have had a traditional conservative Muslim upbringing.

3. In my culture, females are not permitted to interact with men publicly if they are not members of their family.

4. I joined Giggle for Girls (**the App**).

5. Before I joined the App, I knew that it was female only platform and that was the reason I decided to become a Giggle User. I was pleased to be able to finally could participate on a social media platform for females only.

6. Once I joined the App, I was a regular Giggle User.

7. On the App, I made connections with a variety of women with whom I have since maintained relationships. I enjoyed using the App because there were various topics in which I could engage privately in the company of females only, but in which I could not publicly. For example, the App helped me to learn about female bodies, and certain topics about the female body that are shunned in my culture.

8. Being part of the App made me feel like I belonged to a group, where I felt safe as there were no men present and I was able to talk about topics are not openly discussed publicly by women in my culture and religion.

9. When I was using the App, I was aware that men sometimes appeared on the App. In my experience, the men would harass women using the App when interacting in the chats. They made it very toxic. I took sometimes took screenshots of such interactions as I could not believe the way they interacted with the women Annexed to this my affidavit and marked "**AFS1**' is one screenshots I took to which I refer above which I have located still on my phone.

10. I reported men to the Giggle team every time I identified one on the platform.

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Affirmed by the deponent [redacted]
on 23 October 2023
Before me:

DocuSigned by:
[signature]
186EAE34BD14454...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed and sworn or affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "**AFS1**" now produced and shown to Anaum Fathima Syed at the time of swearing his affidavit on 23 October 2023 before me:

K Deves

Solicitor

DocuSign Envelope ID: 2DC0D30B-38CF-454A-9A7A-9DC3FE82F694

"AFS1"



im a guy lol

@literallyawholedude

allow tagging on

according to you morons i belong here on account of my pussy so what's up dipshits

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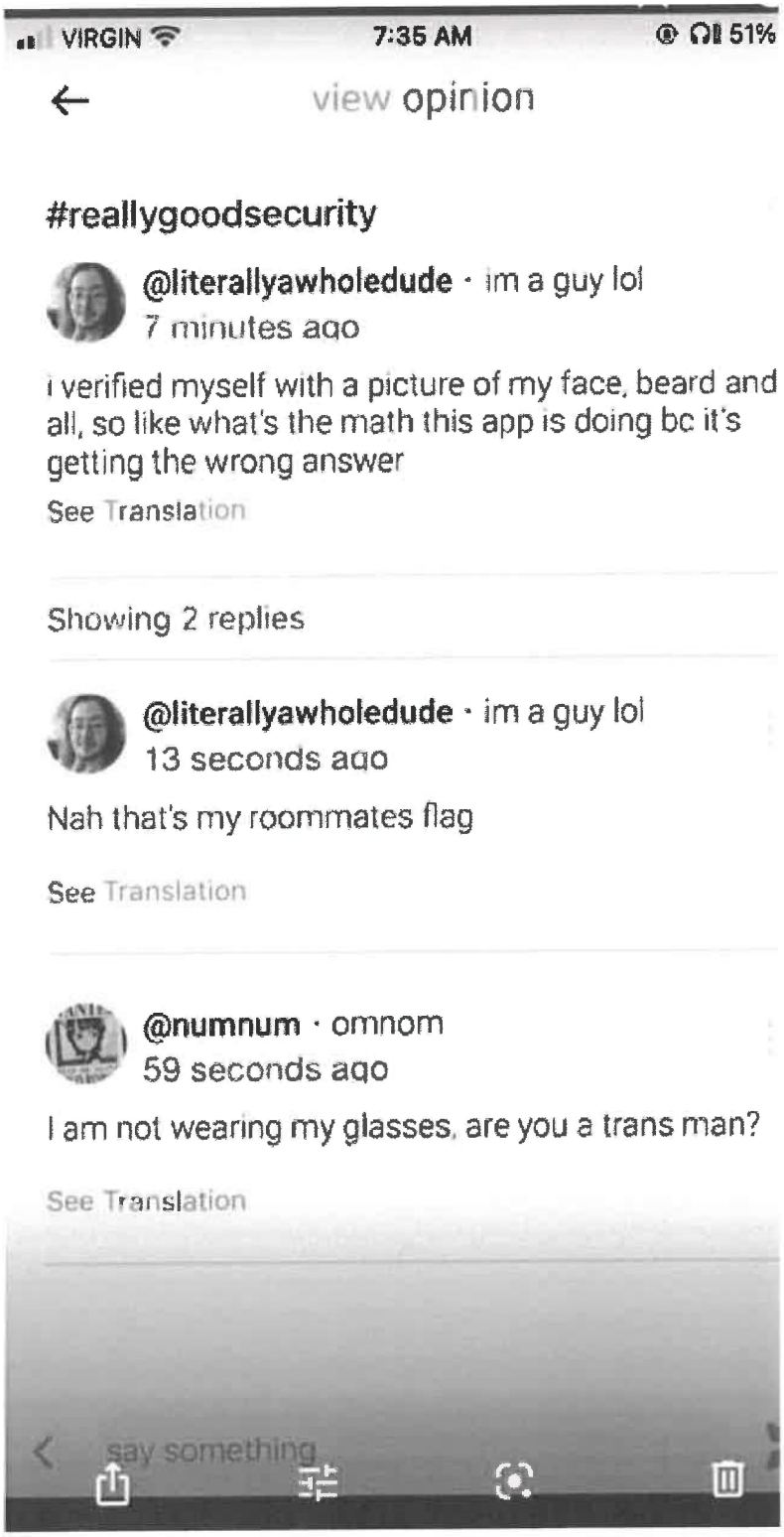

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Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	23/10/2023 11:13:49 PM AEDT
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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Ciantal Raisa Bigornia**

Address: [redacted]

Occupation: Business Operations Manager

Date: 23 October 2023 Sworn

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Ciantal Raisa Bigornia in support of Respondents' defence proceedings sworn on 23 October 2023	1	1

I, Ciantal Raisa Bigornia, say on oath:

1. I manage social media accounts for various women's groups such as Womens Forum Australia, and others such as Rachael Wong, Dr Joanna Howe and Australian Catholic Anti-Slavery Network.

Filed on behalf of (name & role of party) Ciantal Bigornia, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by: DE.AAFB845F8442F
Deponent

K Deves
Witness

2. Managing these social media accounts involves creating, posting and monitoring social media posts, reviewing social media comments and private messages, and ad buying.

3. In the course of the management of these accounts, I have observed the regular use of derogatory and vitriolic comments aimed at the women using these platforms.

4. On the social media accounts of women which I manage or have oversight, these women receive substantially more unsolicited male attention than the men's social media accounts. There have been times where men have sent messages asking to marry them, date them or "hook up", and other comments about how beautiful or pretty they are. It is my practice to usually just ignore them, but there was one instance where I blocked a man because he sent over 20 messages to the female account holder.

5. These interactions and observations of male behaviour online have led me to exclude myself from personally participating on these platforms. This is because they have evoked strong feelings of discomfort and insecurity. The experience of the male unsolicited attention, inappropriate remarks, and, at times, overtly aggressive behaviour has made these online spaces appear hostile and unwelcoming to me. It has had a negative effect on my mental health conditions, in particular, my anxiety. The risk of exacerbating these conditions through stressful online experiences, such as those I have observed in managing social media accounts involving confrontations with male users, has deterred my personal participation on online spaces. I have intentionally limited my personal social media use due to witnessing these negative interactions experienced by my colleagues.

6. I started using the Giggle App around September 2022 after listening to an interview Rachael Wong had with Sall Grover on the Giggle podcast.

7. I chose to participate personally on Giggle, because it was a female-only app. For me, women-only spaces like women's prayer groups, sporting teams, and study groups have played a pivotal role in managing my mental health. These environments have consistently provided a supportive and empowering atmosphere.

DocuSigned by:
DEAAF8E45F8442E
Deponent

K Deves
Witness

DocuSign Envelope ID: 0A63B01C-9DF0-4200-9A51-D291E07B3325

8. On this platform, I found the conversations to be relevant and the users supportive. For the first time, I felt a genuine sense of security and belonging in a digital space, devoid of the apprehensions associated with male interactions.

9. My experience on Giggle significantly diminished the anxiety I previously experienced associated with online interactions. The platform provided an avenue for open communication, free from the apprehension of unsolicited attention or judgment from male users. The Giggle app mirrored the comfort of in-person women's groups, while also offering the unique advantage of connecting with women from various locations because I could freely talk personal issues such as dating or private topics (including embarrassing female health concerns) without being judged or being worried about being judged.

Sworn by the deponent [redacted]
on 23 October 2023
Before me:

DocuSigned by:
DEAAF8C45F8442F...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was sworn by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022
Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another
Respondents

Affidavit of:	**Mardi Sandford**
Address:	[redacted]
Occupation:	Self-employed/woman's advocate
Date:	23 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Mardi Sandford in support of the Respondents' defence proceedings affirmed on 23 October 2023.	1	1

I, Mardi Sandford, affirm:

1. The first time I was raped, I was 8 years old. I was raped multiple times after that. Too many to count.
2. My last relationship, not long ago, in my early 30s, ended in rape.
3. To deal with the trauma I began drinking alcohol to excess form an early age.

Filed on behalf of (name & role of party) Mardi Sandford, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by: Mardi Sandford FB464D1F-121F-402...
Deponent

K Deves
Witness

4. I was homeless for 10 years.

5. Given my experience, I need male-free spaces for my own sense of security and mental wellbeing.

6. In my experience, when I participate in online social media discussion with someone, a man will usually insert himself into the conversation and tell me what to think, tell me or other people in the conversation how my or their opinion is wrong, take over the thread or abuse me or the other women participating in it personally. When I am engaging with other women, I constantly must fend off men who interrupt, abuse women and disparage them. In my experience online, men put a wedge between younger and older women, disparaging older women to the younger women.

7. Because of the experiences I have had in my life, when I am online, I try help other girls and women who have had experiences like me and discuss with them how to protect themselves. I like being with other women to share, network, teach and write. I want to focus on women, to focus on building them up with knowledge and opportunity, to create community and collaboration.

8. I joined the Giggle App ("**the App**") after the Melbourne lockdowns on or around Valentine's Day 2021.

9. Women on the App were sharing the Female Dating Strategy with other women. The younger women liked it as it was a tool on how to value yourself as a woman and how to have good quality romantic relationships. Many older women commented to the effect that they "wished they had this when they were younger".

10. It was a different energy I experienced on Giggle to that which I experience in other online social media forums. The women were there because they liked to connect with other women. The women were respectful to one another. I asked women why they joined, and many said words to the effect that they were there to make friends and develop a community with other women free from male interruption and male energy. I helped women connect with other local women, and helped them to network and find each other on the App.

24. For me, in my experience, the App was awesome until I encountered a male User. When men were able to get on the App, they changed the environment completely.

25. There were no DMs (direct messages) on the App so men could not contact women directly. But they would post on the main feed. The block function did not really work, as you could block them, but you would still see their posts.

15. For example:

a. Some men would appear on the main feed and taunt women with posts to the effect "I've made it".

b. On one occasion, I was on the App looking for someone to catch up with and I came across a profile asking me "Looking for fun?". In my experience, that is not how women talk.

c. On another occasion, I came across in a conversation where a User claimed to be intersex. I tried to engage with him, but he was very hostile and argumentative.

d. On another occasion, I engaged with another User who told me directly that "I was a man I am just pretending to be intersex". In my interaction with him he was discordant and argumentative despite how nice I tried to be with him.

26. When I encountered men on the App, I felt distressed because for me the App was a safe space where I could be free of unsolicited and unwanted male attention or intrusion.

27. As I have grown older, I found that it has become harder for me to meet like-minded friends in real life. The App was a great way for me to connect with other like-minded women in a safe and respectful way.

28. Interacting with the female Users was pleasant. The App provided me with a community of women and girls where I embraced my role as a mentor and made some good friends. I still have some of the friends I made on Giggle, and I am still in contact with them today. I love meeting with the women I met on Giggle.

Sworn / Affirmed by the deponent)
[redacted])
on 23 October 2023)
Before me:)

DocuSigned by:
Mardi Sandford
FB484D1F121F4D2...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: Dr Holly Lawford-Smith

Address: [redacted]

Occupation: **Academic**

Date: **23 October 2023** Affirmed

Contents

Document number	Details	Paragraph	Page
1	**Affidavit of Holly Lawford-Smith in support of Respondents' defence proceedings affirmed on 23 October 2023**	1	2
2	**Annexure "HLS1", being copy of correspondence with Hinge**	8	5
3	**Annexure "HLS2", being copy of correspondence with HER**	11	10
4	**Annexure "HLS3", being copy of correspondence with HER**	11	13

Filed on behalf of (name & role of party) Holly Lawford-Smith, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 **Fax**
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by: HLawford-Smith 4DA85C551CF2483
Deponent

K Deves
Witness

I, Holly Lawford-Smith, affirm

1. I am a same-sex attracted female, that is, a lesbian. I am 40 years of age. I am single.

Lesbian Online Dating

2. There are only limited online spaces for lesbians to connect.
3. Lesbians are estimated to only be 1% of the adult population in Australia. As a result, I have found it very hard to meet a partner. It is my experience that it is very difficult to meet same-sex attracted females organically because events are now aimed at inclusion of the entire so-called "LGBTIQA+ community". That means events that would in the past have been for lesbians are now overrun by people of both sexes, many identifying as trans or queer.
4. I am an academic who currently specialises in gender-critical feminism. Because of my research, writing and advocacy for lesbian rights and women's rights, I am often recognised by transactivists. Because of this I have chosen to self-exclude from LGBTQIA+ social events because I feel that I would not be welcome and might be verbally or physically assaulted.
5. In my experience, online dating apps are the only real way that I can connect with other same-sex attracted females.
6. There is no female-only dating app offered in the market.
7. I have used Tinder. Tinder is a predominantly heterosexual platform. In my experience, the Tinder algorithm shows lesbians to men. As a same-sex attracted female seeking other same-sex attracted females, I did not want my profile to be shown to males. I also prefer to use less popular apps to safeguard my privacy, given that I am a lecturer, and have no desire for students to see my online dating profile.
8. I was removed from the Hinge App. I was advised in correspondence with Hinge that the reason for my removal was that I had been reported for hateful behaviour and had violated their hateful conduct policy. Annexed to this my affidavit and marked "HLS1" is correspondence with Hinge to which I refer.
9. On these dating apps, I would try to find ways to signal to others that I was a female and same-sex attracted. I did this to avoid being matched with trans "lesbians", because they are male, and I am not attracted to males. For

DocuSigned by:
HLawford-Smith
4DA85C551CF2463
Deponent

K Deves
Witness

example, I wore a T-shirt with the caption "Lesbian: Adult Female Homosexual" in my profile picture.

10. I have used HER. HER was formerly an app for lesbians, bisexual, and queer women. HER now accepts males. It is no longer for females only. The app in 2023 sent a message to all users to the effect that 'transphobes' should delete the app, and 'don't let the door hit you on the way out'. HER has been transformed by the inclusion of males. A large proportion of the profiles self-labelling as 'lesbian' are now adult males, and there is no way to filter by same-sex attraction. This made me feel as if my sexual orientation was being disrespected, that is, instead of it being 'homophobic' to tell a lesbian that she should just try dating males, it had become 'transphobic' for a lesbian not to date males. I felt that I was being shamed into dropping my boundaries, or risk being tarnished as a bigot within the LGBT community. I found this to be inherently coercive. For taking the position that sexual orientation is fundamentally a matter of sex, I have been called a "transphobe", a "genital fetishist" and worse. This is distressing to me.

11. I joined HER. Before I did, I emailed HER, as I wanted to get clear guidance on how I could signal my sexual orientation without being removed from the app as had happened on Hinge. Their advice was unclear, and eventually I was removed from the HER app as well. Annexed to this my affidavit and marked "HLS2" and "HLS3" is the correspondence with HER to which I refer.

12. I now sometimes use Bumble. Bumble matches people based on their self-defined gender identity, not their sex. Thus, the closest approximation to being able to match with other lesbians is that those who identify as women and who want to date women can be matched with other people who identify as women and want to date women. That is, the primary filter for matching is based on gender identity, not sex. There is no way to filter for people of my sexual orientation, the search results do not deliver the type of person I wish to date.

13. Before I joined the Giggle app, all I knew about it was that it was female-only. I joined it to explore the female-only dating experience.

DocuSigned by:
HLumford-Smith
4DA65C551CF2463
Deponent

K Dewes
Witness

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14. When I joined Giggle, it was very early days in the App and there was only a small pool of users who were lesbian using the dating function. There was not a function to filter by geographical location.

15. In my experience, lesbians want to date other lesbians and want to exclude people on the basis of their same-sex sexual orientation, not gender identity. An app with a female-only dating function would be the only place to exclude and search in the way that I want to, in order to meet other same-sex attracted females. Giggle was the only platform offering this service.

25. The impact of the loss of female-only online spaces makes it extremely hard for me to meet people and date. The loss of these spaces has caused me to despair that I may now never meet someone.

Affirmed by the deponent [redacted]
on 23 October 2023
Before me:

DocuSigned by:
[signature]
4DA85C551CF2463
Signature of deponent

K Deves
Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed and affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "**HLS1**" now produced and shown to Holly Lawford-Smith at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Lawyer

"HLS1"

---------- Forwarded message ---------
From: **Holly Lawford-Smith** [redacted]
Date: Sun, Jun 14, 2020 at 8:20 AM
Subject: Re: [Hinge] Re: Account banned?
To: Hinge Support <hello@hinge.co>

hi rob,

okay, thanks for letting me know. i consider this to be direct discrimination on the basis of political beliefs, and indirect discrimination on the basis of sex and sexual orientation given that these are beliefs lesbians are most likely to have. your terms and conditions suggest that we should try to resolve this amicably before moving to arbitration. therefore i would like to remind you that while you're operating out of texas, where the situation for trans people is very different, i'm living in a state that has engaged self-identification for sex (which means anyone can change their sex with a mere statutory declaration). gender identity is protected in the state equal opportunity act and the federal sex discrimination act. there are no murders of trans people. so the political importance of suppressing or silencing women's criticism when it comes to issues like women-centred language or whether lesbians need to pretend to be open to dating people with penises is much less here. it is common in this debate for americans to react like you have. but you're a multinational company so you should be sensitive to the differences in context in the parts of the world where you operate. please let me know if we can resolve this short of arbitration, which will be expensive and time-consuming and i'd rather avoid.

cheers,

holly

On Sun, 14 Jun. 2020, 5:11 am Rob (Hinge Support), <hello@hinge.co> wrote:

Please type your reply above this line

Your request (2684206) has been updated. To add additional comments, reply to this email.

Rob (Hinge)
Jun 13, 2020, 3:11:19 PM EDT

Hi Holly,

Thank you for your response.

To protect members' privacy, we do not disclose the volume or content of reported violations. We understand that this policy may be frustrating but it's an important part of our efforts to keep Hinge safe.

Please know that our decision has been carefully considered and is final.

Best,

Rob



Holly Lawford-Smith
Jun 13, 2020, 12:09:22 AM EDT

hi rob,

that's fine, but it doesn't tell me what i've actually done to violate your terms? i have been trying to be clear in my profile about my politics in order to avoid matching with people who will not be comfortable about them - because i'm aware that there's a lot of ignorance and misinformation on this topic. i am an academic who is writing a book on the topic of gender so my views are not unconsidered. initially i was trying to signal more subtly but i kept matching with people who hadn't understood. so i recently made a more explicit change, to say that i support jk rowling and think women-centred language is important. i don't understand how hinge can choose to interfere in feminist disagreement by banning the account of someone who has unorthodox views. trans activists have long been using mass reporting to get women silenced - this happens routinely on twitter too. but you shouldn't as a company be letting them do this - we can disagree so long as we're respectful with each other, surely. as a feminist and a lesbian i am surely entitled to views about the importance of women-centred language! so please tell me what those who have reported me have said that points to an actual violation of your policies, or where my profile comments violate your policies? this is a pretty

significant decision given that it's not easy to meet gay women, and i had several interesting conversations running with women that i have now lost contact with.

cheers,

holly

Rob (Hinge)
Jun 12, 2020, 7:17:24 PM EDT

Hi Holly,

Thank you for writing in.

Hinge actively identifies behaviors that violate our Terms of Service. Your account has been removed due to the volume of violations you've received against your account by other members and/or our own independent determination.

As noted in our Terms of Service, *"Hinge may cancel, suspend or block your use of Hinge Properties without notice if there has been a violation of these Terms, as determined by Hinge in its sole discretion."*

Best,

Rob



Holly Lawford-Smith
Jun 12, 2020, 7:15:02 PM EDT

hello,

i just tried to log into my account and am getting a message that my account has been banned for violating the terms of service. i haven't had any email or text explaining why. the number i use to log in (my number) is +[redacted] can you please give me some information about why this happened? i had recently reported someone else for abuse because they sent me a message with two misogynistic swear words, but i haven't been abusive towards anyone. so i am pretty confused.

cheers,

holly

Hinge | FAQ | Privacy | Terms

[Q5GK85-G0L4]

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "HLS2" now produced and shown to Holly Lawford-Smith at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Lawyer

"HLS2"

---------- Forwarded message ---------
From: **Samantha J** <support@weareher.com>
Date: Sat, Sep 25, 2021 at 9:09 AM
Subject: Re: question about profile content
To: [redacted]

Hi Holly,

You are not allowed to say words such as "No trans, no butch, no lesbians, etc." Anything that is negative is not allowed. You can probably try saying "I have my personal preference with dating, while I respect others, I'd love to get connected with...". Something like this should be good.

Regards,
Samantha

On Fri, 24 Sep at 3:19 PM , Holly Lawford-Smith [redacted] wrote:
hi samantha,

thanks, but it would be helpful if you could answer my questions more directly, and give me some specific advice or examples. we're in a context where activists will claim hurt feelings they don't have just to get people with political views they don't like banned. can you tell me how you think i can state my views and preferences in a way that would not make me vulnerable to a ban?

cheers,

holly

> On Sat, 25 Sep 2021, 7:59 am Samantha J, <support@weareher.com> wrote:
> Hi Holly,
>
> Thanks for reaching out to us about this.
>
> We do respect everyone's opinion, preference, values, etc. but we are avoiding any statements that will trigger users and get hurt. We want HER to be a safe place for all LGBTQ people. The app is not just for dating, we have communities for every users to interact and gain support for the community. If you get a like from someone that you don't like, you can simply ignore the user.

I do appreciate the fact that you reached out to us to ensure that you abide with the Community guidelines. My suggestion is to not post anything that would seclude certain sector of the LGBTQ spectrum.

Let me know if you have further questions. Have a wonderful day!

Regards,
Samantha

> On Sun, 19 Sep at 7:49 PM , Holly Lawford-Smith
> <[redacted] wrote:
> hello,
>
> i have a question about profile content that would be considered to be within the HER platform rules (because i don't want to get banned). i am a lesbian and a radical feminist. i don't want to date males (regardless of gender identity) and i would like to find a way to stop matching with leftists who buy into extreme-left ideology. (it is exhausting to keep having the same conversation and then dealing with the person becoming hostile). i understand that you probably don't want people putting "no Xs!" on their profiles, because this can make the experience of using the app feel hostile to people who are listed there. (for what it's worth, a lot of profiles say "no TERFs!" and i experience them this way, and would not want anyone else to have this experience.) (i also think it is stupid to market yourself to people you don't want to connect with rather than people you do). are you able to provide some guidance as to what you think would be acceptable ways to state political views, and sexual orientation, in a way that allows me to connect with similar people, but which does not put my account at risk of being banned? for some examples, do you consider it acceptable to state exclusive attraction to biological females? do you consider it acceptable to state being a radical feminist, or a gender-critical feminist? a friend of mine had a profile saying which extreme-left dogma she disagreed with (e.g. "all cops are bastards") and was banned last week. so guidance in this matter would be really useful.
>
> thank you!
>
> holly

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District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "HLS3" now produced and shown to Holly Lawford-Smith at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Lawyer

"HLS3"

---------- Forwarded message ---------
From: **Holly Lawford-Smith** [redacted]
Date: Fri, Jan 21, 2022 at 8:06 PM
Subject: Fwd: account suspension?
To: Samantha J <support@weareher.com>

hello,

i'm still waiting for a reply to this email.

cheers,

holly

---------- Forwarded message ---------
From: **Holly Lawford-Smith** [redacted]
Date: Tue, 18 Jan 2022, 2:46 pm
Subject: Re: account suspension?
To: Samantha J <support@weareher.com>

hi samantha,

i'm not transphobic and wasn't being transphobic on the app, but i am a radical feminist and gender-critical, which some activists like to call "transphobic" instead of bothering to come up with an actual articulation of their disagreement. this is not a matter of discrimination, it's a matter of a deep disagreement about feminism. i am an academic and i have a book coming out soon with an academic press on this precise topic! i tried very hard to negotiate the right balance on the app of making people aware of my views in case they would be a dealbreaker, and avoiding upsetting anyone. but just because some people are angry about those views shouldn't mean that i - as a lesbian - lose the right to use the app entirely. that's really not fair.

please reply with any evidence of what i have said or done that counts as a clear violation of your community guidelines. i read them carefully and i cannot see how i could possibly be in violation of them.

i look forward to hearing from you,

holly

On Tue, 18 Jan 2022, 1:18 pm Samantha J, <support@weareher.com> wrote:

Hi Holly,

Thank you so much for reaching out to HER about your account. I am happy to help you.

It looks as though your profile was reported by members of the community for breaking our community guidelines (showing transphobic behavior). You can read all of our community guidelines here: https://weareher.com/community-guidelines.

Due to the break in community guidelines, we will not be reinstating your profile.

Let me know if I can help with anything else.

Thanks,
Samantha

> On Sun, 16 Jan at 4:02 PM , Holly Lawford-Smith <aytchellis@gmail.com> wrote:
> hello,
>
> my login phone number is [redacted] and i've attached my suspension notification as a screenshot.
>
> i suspect that a recent match reported me for being a radical feminist, because she blocked me immediately after learning what that means. but i take it you are aware that you are not allowed to discriminate on the basis of political beliefs, including feminist ones, in the provision of services.
>
> i have previously been in touch with HER support precisely to seek advice about how to manage this situation, because i wanted up be up front with prospective matches that might feel strongly about these issues, and avoid conflict. i had followed the support team's advice in my profile.
>
> the emails came from this address if you would like to check the history.
>
> please restore my account, including my current conversations, and please refund this month's subscription fee.
>
> cheers,
>
> holly

NOTICE OF FILING

Details of Filing

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Registrar

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Janet Fraser**

Address: [redacted]

Occupation: National Convenor of Joyous Birth 2785

Date: October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Janet Fraser in support of Respondents defence proceedings affirmed on 23 October 2023	1	1

I Janet Fraser affirm

1. I have been the National Convenor of Joyous Birth, the Australian homebirth network since June 2004. I am authorised to make this affidavit for and on behalf of Joyous Birth.

Filed on behalf of (name & role of party) Janet Fraser witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
Janet Fraser
7600F080B3A34A9...
Deponent

K Deves
Witness

2. Joyous Birth is a voluntary organisation. It provides peer support to women birthing at home. We provide this support predominantly using online spaces, that is, a dedicated forum at www.joyousbirth.info and on Facebook, where we have a public page for all matters maternal, and several dedicated private groups such as for a group for single mothers, a group for autistic women, and a group for women going through family law matters. We also provide support through regular online and face to face gatherings.

3. We are a group comprised of predominantly consumers (that is, people in the health system who are not health care professionals) midwives, and doulas, predominantly, seeking to support women through birth, breastfeeding, and mothering.

4. Over the years Joyous Birth has had about two thousand members currently including a Facebook group of 570 members; many of whom have been members since the beginning in 2004.

5. Joyous Birth provides peer support to women, most of whom are mothers and with the range of sexual orientations, for breastfeeding, mothering, birth education and healing from "obstetric violence" and traumatic birth. We provide support to women who have experienced miscarriage, stillbirth, abortion, and other reproductive issues specific to women such as infertility, perimenopause, menopause, and other female hormonal and reproductive issues.

6. Joyous Birth provides support to mothers going through family law matters and managing the ongoing outcomes of those matters.

7. Joyous Birth has a commitment to analysing women's experiences, in medical and legal settings, based on sex.

8. Joyous Birth recognises, and *considers* it important, that it provides a female-only space within which it is safe for its membership to share and discuss the deeply personal and emotional experiences that they have had in the context of their womanhood.

9. Many women in our membership have often spoken to me of how deeply they value the space we provide, online and face-to-face, and the community of other women. These members have told me that they value this female-only space because it provides them with a sense of safety and solidarity in sharing their experiences. For example:

One woman had a four year old daughter who was murdered by her father. Our group provided loving support, and a necessary female-only space to this mother, who was profoundly affected by male violence. Based on my experience of providing peer support to women for nearly 20 years, and the stories that women have shared with me of their trauma in dealing with the effects of domestic violence, and male violence more generally, women would not have been comfortable participating in a space with men present. For this woman, for example, given that her daughter's murderer was male she had a profound fear and distrust of males.

One woman was pregnant with a baby diagnosed with a fatal foetal anomaly and waited several months for her pregnancy to conclude knowing her baby would die. Women in the membership held the space for her emotionally and physically throughout this time while she experienced this traumatic pregnancy and birth. Formerly on the forums, one which was public and anyone could join, we included fathers in the discussions. While moderating these forums, and speaking to women in the membership, I observed and was told by other members that men were not well equipped to provide women support in these circumstances when they were shared. In my opinion, this is because men do not experience pregnancy, least of all, fatal foetal anomaly, from the perspective of the mother in whose body the baby gestates. Based on my experience, in this space men would not have provided the peer support this woman needed and women like her need and value going through this experience.

One woman experienced a caesarean surgery during which the epidural failed leading to her feeling the surgery. This woman shared with me that this experience was significantly traumatic to her. She expressed to me that she felt

supported working through this trauma with the other mothers, who provided a safe and empathetic space.

One woman was unsupported in breastfeeding her first two children. When she achieved a pregnancy with her third child, she joined the group after being recommended to participate for our breastfeeding support. She expressed to the group in which I participated, her grief and distress about her previous experiences. She expressed gratitude for her ability to commune in a private space where she could learn about breastfeeding. She expressed that she felt that support she received from the group was instrumental in her ability to successfully maintain a breastfeeding relationship with her third child for several years. One of the features of her experience in the group was her ability to share intimate details of the sexual abuse she experienced in childhood, which, through the process of sharing this trauma with the group, she realised was impacting on her capacity to nurture her babies. In my opinion, based on my experiences of working with women like this woman, and others in Joyous Birth for nearly 20 years, a man being present in this space would have prevented this woman from seeking and receiving the support she needed to process her trauma and achieve the outcome she did.

10. In my experience of working with Joyous Birth for nearly 20 years, I have seen women experience discrimination and violence based on their sex. I have seen that their experiences as women have been affected by cultural and linguistic diversity. I have worked with women who have experienced discrimination based on their race, their sex, and or their pregnancy status. In assisting these women, Joyous Birth needs to be free to employ an analysis which recognises the reality of their biological sex so that I may assist them with their experiences which are uniquely female.

11. In my experience working with women in Joyous Birth, women, regardless of their sexual orientation, ethnicity, religion, relationship status or paid work status, all share the biological imperative of their sex. To do the work that Joyous Birth does and provide the support and services that it provides, it needs women-only spaces. These women-only spaces, particularly, online spaces, are vital to providing the emotional and psychological support

necessary to assist these women achieve psychological and physical well-being and safety.

12. The presence of men in groups where women frankly discuss their bodies, health, needs and sex-specific experiences would have a chilling effect on our capacity to gather and speak.

Affirmed by the deponent [redacted]
on 23 October 2023
Before me:

DocuSigned by:
Janet Fraser
7600F080B3A344B

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed and affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

NOTICE OF FILING

Details of Filing

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Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another
Respondents

Affidavit of: **Jennifer Mimiette**
Address: [redacted]
Occupation: Corporate Travel Agent
Date: 23 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Jennifer Mimiette in support of Respondents' defence proceedings affirmed on 23 October 2023.	1	1

I, Jennifer Mimiette, affirm:

My experience as a Giggle User

1. I am a lesbian. I am not a "feminine" woman. I am very "masculine" in the way I appear, dress and conduct myself.

Filed on behalf of (name & role of party) Jennifer Mimiette, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
7DA0993680114...
Deponent

K Deves
Witness

2. Lesbians represent a minority, so it is very important to have our own spaces where we can meet other lesbians. There are very few places where lesbians can meet anymore. I have effectively withdrawn from dating life by reason of my sexual orientation.
3. I used to frequent lesbian only bars but not anymore. Nowadays, I am less likely to go out to spaces designated for LGB because they now include men who claim to be lesbians.
4. There used to be lesbian only sub-reddits where many lesbians from all parts of the world, of different races and cultures, were able to interact and connect. These places do not exist anymore.
5. I personally need male free spaces to feel safe to talk about things which are exclusively female: like my body, how it works, why am I am feeling this pain, why am I angry after taking the pill, why do I have to take the pill to regulate my menstrual cycle, etc. I also need a space to talk about things that affect me as a woman in lesbian relationships, like how to be a better life and sexual partner.
6. In my experience, when you have these conversations in the general public, some men have a reaction of disgust. On the other hand, when we lesbians get together and start talking about sex men become aroused. Because lesbian porn is prevalent, in my experience men will seek out lesbian chat groups to indulge these fetishes. Lesbians talk sexually about women too, but it becomes a very dark place when men enter the conversation. In my experience, males are domineering and get very graphic about their body and what they like in sex.
7. I wanted a safe space, with women who are like me, and who understand my experience.
8. In 2021, I joined the HER dating app that was advertised as a lesbian only dating app. I created a profile and got a lot of trans-identified males who said they were lesbians contacting me. I could not exclude these people using the App functions so I changed my profile to say "only contact me if you are born female and proud to be female, not trans or nonbinary because we would not be compatible". I was permanently banned.

DocuSigned by:
7DA0993B8011444
Deponent

K Dewes
Witness

9. I joined the Giggle App ("**the App**") a couple of years ago. I knew that it was meant to be a female only app space and that was the appeal for me to join. I used the lesbian dating feature of the Giggle App and created a dating profile.

10. Giggle proved to be a safe space for me. In my experience, it is a different vibe when women get together. When it is just women present, we talk about the female body, but not in sexual nature and it is comforting to have that space. I personally was so relieved that there was finally a space where I could talk away from the male gaze, from men in general, especially those who want to target women's spaces.

Affirmed by the
deponent at [redacted]
[redacted]
on 23 October 2023
Before me:

DocuSigned by:
7DA099368011444...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

NOTICE OF FILING

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another
Respondents

Affidavit of: **Samantha Jo Elson**
Address: [redacted]
Occupation: Mother and homemaker
Date: 23 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Samantha Jo Elson in support of Respondents' defence proceedings affirmed on 23 October 2023.	1	1

I, Samantha Jo Elson affirm:

1. I am the primary caregiver for my two disabled children, one of whom has severe autism. It is difficult for me to leave the house as most of my time is taken by caring for my children.

Filed on behalf of (name & role of party) Samantha Jo Elson
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

DocuSigned by:
8A777EFC5BF049D
Deponent

601

K Deves
Witness

2. I joined the Giggle App by responding to an invitation to join on Twitter not long after the London lockdowns ended.

3. I heard Giggle was a female-only App as there was a lot of discussion about it on Twitter and I wanted to get on board to support women and enjoy female only spaces to be away from other online spaces where men's opinions dominated the conversations. It was lovely talking to other women about their lives, women's issues, women's health and their relationships.

4. Given my everyday difficulties of caring for my two children, Giggle became very important to me. It felt like a mother's club where I could reach out if I needed to talk to someone who was willing to listen and respond. There was usually always some discussion thread going around that I could join which gave me the feeling of belonging and helped me feel less alone at home with my two children.

5. I experienced men on the App from time to time. I could always tell who the men were, and in my experience the men would make sure the women knew who they were there. For example, they would post penis memes, make comments like "terfs should all die in a fire", say things like they "were better looking than the women" on the App, call women "bigots", or insult the women having conversations.

6. I am a woman of colour. I observed men coming on the App and making racist slurs towards other women of colour which caused me distress and anxiety. I chose to use and participate in the App so as to have a space away from this sort of conduct which I frequently observed on other social media platforms.

7. The experience I had when the men were present on the App was negative. When I identified men on the App, I would report them.

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Affirmed by the deponent
[redacted]
on 23 October 2023
Before me:

DocuSigned by:
8A777EFC5BF049D...

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

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***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another
Respondents

Affidavit of:	**Juanita Lee Morgan**
Address:	[redacted]
Occupation:	Domestic Cleaner
Date:	28 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Juanita Lee Morgan in support of Respondents' defence proceedings for affirmed on 28 October 2023.	1	1

I Juanita Lee Morgan affirm:

1. I am recovering addict. I have been sober for 28 years.

2. My first memory at the age of 3 or 4 was waking up one morning to realise that no one was awake. I snuck out into the kitchen to eat a bowl of sugar. I did not even get a spoon

Filed on behalf of (name & role of party) Juanita Lee Morgan, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
[signature]
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Deponent

K Deves
Witness

to do so. I have been like that ever since. When I start do something that alters my mind, I cannot stop.

3. I was sexually assaulted as a child in an outdoor toilet. As a result, I had a fear my whole life of using outdoor toilets.

4. I have been sexually assaulted three times by here different men - a priest, an elderly man who was my tutor helping me with my schoolwork, and a man on a plane. I was raped by an abusive and controlling ex-boyfriend on my couch at home after we broke up in an act of retaliation.

5. My father was an alcoholic and drug addict. He was violent at home. Growing up, the verbal abuse in our house was constant. I felt "less than" as a human being and very insecure all my life.

6. I have managed my natural tendency to overthink and my excessive adrenal responses to everyday life by anaesthetising myself with excessive consumption of food, alcohol, spending, and drugs.

7. 29 years ago, in 1994, I went to my first Narcotics Anonymous (**NA**) meeting. It was conducted in a community centre. It was an open forum with everyone sitting a circle with one person chairing the meeting sharing their experiences of strength and hope and then inviting everyone to do the same.

8. I followed the 12-step fellowship, which starts with the suggestion of 90 meetings in 90 days. I have participated in fellowship meetings on a regular basis for the last 29 years. I have held numerous service positions within the fellowships. For example, I have just opened a new meeting group in Worrugal, Victoria. The fellowship meetings are typically comprised of more men than women.

9. I am now classified as a high up service position referred to as an "OCM", an "older cleaner member".

10. In my experience as an OCM and a recovering addict, the people coming into fellowship meetings are broken. Many broken by experiences of severe life trauma, mostly sexual and violent. This is true for both male and females, but predominantly females.

DocuSigned by:
530003E3A0664QA

Deponent

K Deves
Witness

11. One of the major reasons why women lapse into addiction and leave recovery is because they leave with men or because of men's abusive behaviour towards them. There is an unspoken tradition in the 12 step fellowships that women are sponsored by women only and men by men only because of the vulnerable nature of sharing of these personal intimate life experiences that is required to complete the 12-step programme.

12. There is a phenomenon in the 12-step programme which is referred to within the global fellowship as the "thirteenth steppers". This refers to men who prey on vulnerable women who are early in their recovery. I was one of those women. I was six years sober when my ex-boyfriend to whom I refer above started to prey upon me. I had just left my first husband and was struggling with loneliness and insecurities. He started to call me and manipulated me into a relationship with him. The relationship was abusive and violent. And as I have described it ended with a retaliatory sex assault upon me ending the relationship. I was lucky because despite this experience, I stayed sober and with the fellowships. I have, in my long experience in the fellowships, seen countless women lapse into addiction by reason of male abuse. This is among the reasons why the 12-step program introduced female only meetings. This was until recently a standard practice within the fellowships which catered to the need for privacy and respect for categories of difference in recovery. For examples, there are within the fellowships, gay only meetings, lesbian only meetings, celebrity only meetings, trans only meetings, old timer meeting, meeting for younger members, language specific meetings and addiction specific meetings. People in recovery learn, share, and grow better in support groups with other people who have had the same life experiences.

13. There are many women in fellowship meetings that feel safer in female only spaces because of their sexed experiences, mainly pertaining to trauma occasioned by men. Many women are mothers who are raising their children alone, having fled domestic violence, many are women recovering also from sexual trauma and abuse. Many of these women need these females only spaces to share openly and deeply their intimate lived experiences as women in recovery and addiction, free from male ridicule and reprisal.

14. When women are in female only meetings they relax because they know they are safe to share their intimate personal experiences and share vulnerable stories about themselves. Women are made vulnerable by the sharing of these experiences and stories. Women need these safe spaces to decompress and delve into the very intimate female experiences which have caused them trauma. In these spaces I felt inherently safe. In mixed sexed sharing environments my guard is up, and I am inhibited from

sharing my sexed experiences because in sharing them I am often critical of men and what they have done to me.

15. Up until 5 years ago, the female only spaces in the fellowship were respected and maintained. However, since the introduction of gender self ID legislation in Victoria in 2019, trans identified males have started to enter the female only meetings in person and online. This has had a damaging effect on the meetings. As a result, I have observed that women who would willingly participate in female only meetings have self-excluded, and some have left recovery. Female only meetings at fellowship conventions now have men in them.

16. I have observed this has had a particularly negative effect on women, young and old, in the fellowships and more so on those young women who have brought up in a culture of "being kind" and accepting of trans identified males. As a result, I have seen some young women self-excluding from meetings merely because they find the sound of a male voice triggering.

17. When I have raised this issue with the senior service position holders within NA, they shrug their shoulders and say words to the effect that "there is nothing we can do about this". There are traditions in 12 step fellowships (for example, traditions 6 and 10) that "outside issues" which are perceived to be political are not discussed lest the fellowships be diverted from their primary purpose of recovery and be drawn into public controversy. This is the reason why the fellowships are disinclined to take any positive steps to maintain female only spaces because the issue is considered too politically fraught.

18. The result is that in 12 step fellowships, vulnerable women no longer have the safety of female only meetings, whether online or in person. I would personally like to see the reintroduction of female only meetings because they are so essential to women in recovery.

Affirmed by the deponent)
at [redacted])
) Signature of deponent
on 28 October 2023)
Before me:)

K Deves

Signature of witness

Katherine Deves
Lawyer

NOTICE OF FILING

Details of Filing

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "**CW2**" now produced and shown to Colin Wright at the time of swearing his affidavit on 23 October 2023 before me:

K Dewes

Solicitor

DocuSign Envelope ID: 98938D95-AF94-49F9-A526-1B98D91F0372

"CW2"

EXPERT REPORT OF COLIN WRIGHT, PHD

I, Colin Wright, PhD, hereby declare and state as follows:

1. I am over 18 years of age, of sound mind, and in all respects competent to testify.

2. I have been retained by the legal representatives for Respondents as an expert in connection with the litigation Roxanne Tickle v Giggle for girls Pty Ltd & Anor, NSD1148 of 2022. The opinions expressed herein are my own and do not express the views or opinions of my employer.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion.

4. I confirm that in preparing my report I had read the obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth) in the expert evidence practice note in GPN/EXPT (Expert Code) and that I agreed to be bound by the requirements of the rules.

5. I further declare that I have made all inquiries that I believe are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, have been withheld from the Court. The opinions I have expressed in my report are independent and impartial and are based wholly or substantially on my specialised knowledge arising from my training, study, and/or experience. I understand my duty to the Court, and I have compiled with this duty and will continue to do so.

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BACKGROUND AND QUALIFICATIONS

I earned my Bachelor of Science (BS) degree in Evolution, Ecology, and Biodiversity from the University of California, Davis, in 2012. I later obtained my PhD in Evolution, Ecology, and Marine Biology from the University of California, Santa Barbara, in 2018. Following this, I served as an Eberly Research Postdoctoral Fellow at The Pennsylvania State University.

I have been honored with an NSF Graduate Research Fellowship, the Charles A. Storke Graduate Fellowship Award for my exceptional academic and research achievements, and the Mary P. Edmonds Award for publishing outstanding research. I have secured numerous research grants, and have lectured extensively across the United States and internationally about my research and the biology of sex. To date, I have published 28 peer-reviewed scientific articles on animal behavior and the biology of sex.

As an evolutionary behavioral ecologist, I've undergone comprehensive training in the core principles that dictate behavior across the animal kingdom. Among these principles, the most prominent and consistent is related to an individual's sex, namely, whether they are male or female. My depth of knowledge in evolutionary biology and biodiversity provides me with a profound understanding and broad view of the universal defining features of males and females throughout the plant and animal kingdoms.

In drafting this report, I've drawn upon my education, training, years of research, and the research published on the biology of sex by eminent global experts in this particular field. The sources I've referenced are authoritative and come from peer-reviewed scientific publications. A detailed bibliography is attached.

Furthermore, I have thoroughly reviewed, understood, and adhered to the Harmonised Expert Witness Code of Conduct. All opinions I present are founded either wholly or predominantly on the specialized knowledge I've gained from my training, studies, or experience.

I have been asked to review the case filings submitted in this case and provide expert opinion on the subsequent questions:

1. What is biological sex?

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2. How many biological sexes are there?

3. What is a biological male?

4. What is a biological female?

5. What is intersex?

6. Is biological sex on a spectrum?

7. What are primary biological sex characteristics?

8. What are secondary biological sex characteristics?

9. Is there a relationship between primary biological sex characteristics and biological sex? If so, what is it? If not, why not?

10. Is there a relationship between secondary biological sex characteristics and biological sex? If so, what is it? If not, why not?

11. Can humans change biological sex?

12. What is cross-sex hormonal treatment?

13. What effect does cross sex hormonal treatment have on a person's:

a) sex?

b) primary biological sex characteristics?

c) secondary biological sex characteristics?

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14. What effect does the removal of reproductive organs have on a person's:

a) sex?

b) primary biological sex characteristics?

c) secondary biological sex characteristics?

15. How do human beings recognise biological sex in other humans?

16. Are there sex-based differences between the way in which humans recognise biological sex in other humans? If so, why?

17. Based on your specialised knowledge, in your opinion is there a scientific explanation as to why Sally Grover determined that the image (below) the Applicant uploaded at onboarding to App was an image depicting a male person

Based on my education, knowledge, training, experience, and expertise as an evolutionary biologist, I have formed the following opinions and conclusions in response to those questions.

EXPERT OPINIONS

1. What is biological sex?

Sexually reproducing species come in two forms, and the distinction is rooted in the relative size of the gametes being fused (Togashi & Cox, 2011). Some species are **isogamous**, which means they reproduce by the fusion of two gametes that are of *equal size*. Other species are **anisogamous**, meaning sexual reproduction proceeds by the fusion of two *different sized* gametes. In anisogamous systems, the larger gamete is called an egg or ovum, and the smaller gamete is called a sperm or spermatozoon.

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"Biological sex" refers to the sex of an individual. The sexes—male and female—represent the two distinct reproductive roles in anisogamous species.

2. How many biological sexes are there?

Because there are only two types of sex cells in anisogamous species—sperm and ovum—there are only two sexes. This discrete division between sperm and ovum forms the crux of biologists' reference to sex as a "binary."

3. What is a biological male?

Males are defined in biology as the sex that produces numerous small gametes, or sperm (Parker, 2011). We categorize an individual organism as male based on whether he can or is expected to produce sperm based on his primary sexual anatomy (i.e., gonads).

4. What is a biological female?

Females are defined as the sex that yields fewer but larger gametes, or ova (Parker, 2011). We categorize an individual organism as female based on whether she can or is expected to produce ova based on her primary sexual anatomy (i.e., gonads).

5. What is intersex?

The term "intersex" is an umbrella term for developmental conditions in which an individual's primary sex organs (i.e., gonads) do not match their external phenotype, or in which an individual's sex is not clear based on the appearance of their genitals (Sax, 2002). Individuals with intersex conditions are not a third or intermediate sex because these conditions do not result in primary sex organs that produce a unique third type of gamete.

6. Is biological sex on a spectrum?

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It is increasingly common to hear the claim that sex should be viewed as a "spectrum" (Ainsworth, 2015). Proponents of this view give at least three reasons for this belief, yet all are based on misconceptions about the fundamental and universal properties that define males and females across the plant and animal kingdoms—having the function of producing sperm or ova, respectively.

The first misconception is rooted in the fact that some humans have sex chromosome compositions other than XX and XY, which are the typical configurations of human females and males, respectively. Cases where a person might have an extra or missing X or Y chromosome, as seen in conditions like Klinefelter (XXY) and Turner (X0) syndrome, among others, are called sex chromosome aneuploidies. However, chromosomal combinations beyond the typical XX and XY do not denote additional sexes beyond male and female. Instead, they signify chromosomal variations *within* the two sexes, because people with these conditions only ever produce either sperm or ova.

This misconception is a result of terminological confusion relating to how sex is "determined" versus how it is "defined" for an individual. In developmental biology, "sex determination" is a precise term that describes the process by which specific genes initiate and guide sex development (Bachtrog, 2014). Mammals, including humans, exhibit "chromosomal sex determination." Here, certain genes on chromosomes direct the development of males and females. The Y chromosome is deemed "sex determining" because it typically contains the *SRY* gene that initiates male development (Goodfellow & Lovell-Badge, 1993). Without it, a female develops. However, in very rare cases, an *SRY* gene can migrate to an X chromosome, leading to an XX male (Ergun-Longmire et al., 2005).

This mechanism differs from sex-determining methods in other organisms that don't depend on chromosomes. An example is the "temperature-dependent sex determination" found in many reptiles (Crews et al., 1994). Here, an egg's incubation temperature dictates male or female development. For the alligator species *A. mississippiensis*, eggs incubated at higher temperatures (>34°C) yield males, while those at lower temperatures (<30°C) result in females (Lang & Andrews, 1994).

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Other mechanisms for determining sex include environmental and social influences. For instance, the green spoon worm (*Bonellia viridis*) begins its life sexually undifferentiated. It will develop into a male if the larva encounters female chemical cues; otherwise, it becomes a female (Berec et al., 2005). Clownfish, on the other hand, initially emerge as males but undergo an irreversible change to females once they ascend to the pinnacle of their dominance hierarchy to gain access to an anemone (Casas et al., 2016).

These examples illustrate that sex determination mechanisms are incredibly varied. Yet, it's crucial to note that although an individual's sex across a diverse array of species can be mechanistically "determined" in numerous ways through development, it is always defined the same way: by the type of gamete he or she has the function of producing.

The second misconception leading people to believe sex is a spectrum relates to the existence of intersex conditions, where individuals exhibit genital morphology that appears neither typically male nor female. This argument posits that there can't be only two sexes if some people have genitals that *don't* clearly align with typical males or females. This perspective is often reinforced with visuals that plot intersex conditions along a continuum ranging from "typical female" to "typical male," such as the one in the 2017 *Scientific American* article titled "Visualizing Sex As a Spectrum" (Montañez, 2017).

However, the existence of intersex conditions does not entail that sex is a spectrum because people with these conditions do not have anatomy that can or would produce a novel or intermediate type of gamete in addition to sperm and ova.

The third misconception offered in defense of the sex-spectrum model centers around "secondary sex characteristics," which refer to the sex-related anatomies that differentiate during puberty (Paciulli & Cromer, 2022), such as enlarged breasts and wider hips in females; and facial hair, deeper voices, more musculature, and broader shoulders in males. Because the distribution of these secondary sex characteristics can overlap between males and females, it is argued we should therefore view biological sex as a continuum.

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The primary flaw in defining a person's sex in reference to their secondary sex characteristics is that it confuses cause and effect. These traits—while plain to the eye, and inseparable from the way most laypeople think about men and women—do not actually define one's biological sex. Rather, these traits typically develop as a consequence of one's sex, via differences in the hormonal milieu produced during puberty by either male testes or female ovaries (Ellison et al., 2012).

The mere fact that these sex-related traits exhibit some overlap between the sexes does not mean that sex itself exhibits overlap and is therefore a "spectrum." Regardless of the degree of overlap in secondary sex characteristics, there are still only males and females because sex is defined according to the type of gamete an individual can or would produce.

All of the arguments given for sex being a "spectrum" are self-refuting, because they necessarily presuppose the primacy of gametes in defining an individual's sex. For instance, we could only associate XX and XY chromosome profiles with females and males, respectively, if we had prior knowledge of what males and females were to identify the correlation. We also couldn't associate any secondary sex characteristic as being typical of males or females without a prior understanding of what constitutes males and females apart from these characteristics. What all these traits fundamentally correlate with are gametes.

7. What are primary biological sex characteristics?

"Primary sex organs" refer to the gonads, which are sex organs that diverge into testes following male development or into ovaries following female development. These organs are considered "primary" because they produce gametes (sperm or ova) containing inheritable DNA. They also produce most of the primary hormones that affect sexual development and regulate other sexual organs and sexually differentiated behaviors. Primary sex organs define the sex of an individual because they determine the type of gamete they can or would produce.

"Secondary sex organs" refer to the rest of the reproductive system apart from the gonads, whether internal or external. In male mammals, these include the penis,

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scrotum, prostate, as well as the ducts and glands that transport and sustain the gametes. In female mammals, these include the uterus, cervix, vagina, fallopian tubes, and external genitalia such as labia and the clitoris.

8. What are secondary biological sex characteristics?

"Secondary sex characteristics" refer to the sex-related anatomies that differentiate during puberty, such as enlarged breasts and wider hips in females, and facial hair, deeper voices, more musculature, and broader shoulders in males. These traits are called "secondary" because they are related to an individual's sex but do not in any way define it. Secondary sex characteristics develop as a consequence of one's sex via differences in the hormonal milieu produced during puberty by either male testes or female ovaries (Paciulli & Cromer, 2022). Changing the appearance of one's secondary sex characteristics does not in any way change an individual's sex.

9. Is there a relationship between primary biological sex characteristics and biological sex? If so, what is it? If not, why not?

Yes. The primary sex organs that an individual has developed define their biological sex, because these are the organs that have the function of producing gametes. Individuals who have developed testes are male because testes have the function of producing small gametes (i.e., sperm), and individuals who have developed ovaries are female because ovaries have the function of producing large gametes (i.e., ova).

10. Is there a relationship between secondary biological sex characteristics and biological sex? If so, what is it? If not, why not?

Yes. As stated previously, secondary sex characteristics begin developing during puberty via differences in the hormonal milieu produced during puberty by either male testes or female ovaries. The relationship between one's biological sex and one's secondary sex characteristics is therefore one of cause and effect. A surge in testosterone produced by testes in males causes male-typical secondary sex characteristics to develop, such as facial hair, deeper voices, and more overall muscle and upper-body strength. A surge in estrogen produced by ovaries in females causes

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female-typical secondary sex characteristics to develop, such as breasts, widened hips, and fat distributed more on the thighs and buttocks.

While it is true that certain conditions can cause males and females to develop some secondary sex characteristics that are more typical of the opposite sex, such as Klinefelter syndrome in males and polycystic ovary syndrome (PCOS) in females, these are exceptional cases that do not negate the tight causal link between an individual's sex and their secondary sexual characteristics.

11. Can humans change biological sex?

No. While there are many examples of organisms changing sex in nature, humans are not one of them. Clownfish, for example, start out life as males but undergo an irreversible change to become females once they ascend to the pinnacle of their dominance hierarchy to gain access to an anemone (Casas et al., 2016). In the humphead wrasse (*Cheilinus undulatus*), the opposite happens—they start out as female and a subset later change to male (Sadovy et al., 2003).

A revealing question to ask here is: how do we know that these species are able to change sex? We know because their primary sex organs undergo irreversible changes that cause them to stop producing one type of gamete and start producing the other.

Humans cannot change their sex because it is impossible to turn testes into ovaries or vice versa. Humans, like all mammals, are what's called a "dioecious" species, which means that we have distinct unisexual individuals, each producing either male or female gametes. Our primary and secondary sex organs develop in utero, and do not change throughout our life. Modifying one's secondary sex characteristics through hormones and/or surgery cannot change one's sex, as they do not factor into the definition of what it means to be male or female, which is rooted in the type of gamete an individual can or would produce. Such changes are purely cosmetic.

12. What is cross-sex hormonal treatment?

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Cross-sex hormonal treatment is when males are given high doses of estrogen to mimic the hormone profile typical of females, or females are given high doses of testosterone to mimic the hormone profile typical of males. In the context of gender medicine, this is done to cause a person's body to begin developing the secondary sex characteristics typical of the opposite sex.

13. What effect does cross sex hormonal treatment have on a person's:

a. sex?

The changes caused by taking cross-sex hormones are purely cosmetic and have no effect on one's biological sex.

b. primary biological sex characteristics?

Males who take exogenous estrogen experience impaired spermatogenesis (sperm production) and testicular atrophy. These effects are potentially reversible should one discontinue cross-sex hormone treatment, but the extent is unknown (Unger, 2016; Cheng et al., 2019).

Females who take exogenous testosterone experience suppressed ovulation (amenorrhea) and altered ovarian histology (Bailie et al., 2023).

c. secondary biological sex characteristics?

Males who take exogenous estrogen will begin developing the secondary sex characteristics typical of females. These include breast development, increased body fat in a more female-typical distribution, and slowed growth of body and facial hair. The extent of these changes and the time interval for maximum change varies across patients and may take up to 18 to 24 months to occur. Simultaneous use of puberty blocking drugs can aid in achieving maximum change.

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Females who take exogenous testosterone will begin developing the secondary sex characteristics typical of males. Initial changes include increased facial and body hair, skin changes and increased acne, changes in fat distribution and increases in muscle mass, and increased libido (Giltay & Gooren, 2000; Wierckx et al., 2012). Later effects include a deepening voice, atrophy of the vaginal epithelium, and increased clitoral size. Male pattern hair loss also can occur over time as a result of androgenic interaction with pilosebaceous units in the skin (Irwig, 2017).

14. What effect does the removal of reproductive organs have on a person's:

a. sex?

The removal of reproductive organs does not change an individual's sex, as their reproductive phenotype has already manifested and was observed and recorded at birth. To offer an analogy, removing a person's reproductive organs doesn't change their sex any more than removing a tiger's stripes changes its species.

b. primary biological sex characteristics?

Presumably, if one's reproductive organs are removed then they will no longer be present to undergo any changes.

c. secondary biological sex characteristics?

The removal of one's reproductive organs does not have any direct effect on a person's secondary sex characteristics because they have already developed.

15. How do human beings recognise biological sex in other humans?

When a human is born, their sex is recorded by observing the infant's external genitalia. While external genitalia is not the defining characteristic of males and females, they serve as a reliable proxy for underlying gonad type. Over 99.98% of humans can be accurately classified as male or female at birth, while only 0.018% have intersex

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conditions that cause them to appear sexually ambiguous at birth (Sax, 2002). Subsequent observations can often clarify gonad type and, consequently, their sex.

In everyday life, however, we do not see people's genitals before coming to conclusions about their sex. Accurately identifying a person's sex has been crucial throughout our evolutionary history, both for finding potential mates and assessing possible threats. Humans have evolved the ability to very accurately predict the sex of an individual by facial features. Many sexually dimorphic features in faces that emerge as a result of increased hormone levels during puberty underpin our ability to classify people by sex: the brows, eyes, the whole jaw, the chin, the nose, and the mouth (Brown & Perrett, 1993; Burton, Bruce, & Dench, 1993; Chronicle et al., 1995). The spatial relationships among these features also play a role in sex classification (Brown & Perrett, 1993). Many studies suggest that individuals can correctly identify a person's sex over 95% of the time, with some reporting accuracy rates exceeding 99%.

16. Are there sex-based differences between the way in which humans recognise biological sex in other humans? If so, why?

There are currently no known sex differences in how human males and females process and predict a person's sex based on their facial morphology. However, both males and females exhibit the ability to more accurately identify male faces than female faces (González-Álvarez & Sos-Peña, 2022).

17. Based on your specialised knowledge, in your opinion is there a scientific explanation as to why Sally Grover determined that the image (below) the Applicant uploaded at onboarding to the App was an image depicting a male person

Based on my knowledge of human sexual dimorphism, influenced by the distinct hormonal environments produced by the testes in males and ovaries in females, it's clear why Sally Grover concluded that the image of the Applicant uploaded to the onboarding App appeared male.

Although there is no singular "male-defining" trait in the image, a combination of features exhibit predictable effects of male-typical virilization. These traits include a larger nose, a pronounced brow ridge, a broad and square-shaped jaw, thinner lips, a raised nasal bridge, and smaller deep-set eyes (Bruce, 1993; Tanikawa, 2016). In fact, studies indicate that humans are able to accurately predict the male sex 79% of the time from a frontal view of the nose (Chronicle et al., 1995). Collectively, these traits make it highly likely that the Applicant's sex is male.

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Colin Wright
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Colin Wright

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23 October 2023

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Work

Current:

Manhattan Institute (January 2023 – present)
- Fellow

Reality's Last Stand (January 2020 – present)
- Founding Editor

Previous:

Quillette Magazine (May 2020 – May 2022)
- Managing Editor

Foundation Against Intolerance & Racism (August 2021 – May 2022)
- Managing Editor

The Pennsylvania State University (July 1, 2018 – April 2020) – State College, PA
- Eberly Research Postdoctoral Fellow

Education

UC Santa Barbara (June 15, 2018) – Santa Barbara, CA
- Ph.D. in Evolution, Ecology and Marine Biology

UC Davis (June 14, 2012) – Davis, CA
- B.S. in Evolution, Ecology and Biodiversity

Publications

Academic:

2023

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*Signifies equal work by authors

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3. **Wright, CM.** Testimony or Evidence? *City Journal*, August 2023
4. **Wright, CM.** Why the AAP Gender-Care Review Must Be Handled with Caution. *New York Post*, August 2023
5. **Wright, CM.** Anatomy of a Scientific Scandal. *City Journal*, June 2023
6. Sapir, L., and **Wright, CM.** Medical Journal's False Consensus on 'Gender-Affirming Care'. *The Wall Street Journal*, June 2023
7. **Wright, CM.** Don't Take Pride in Promoting Pseudoscience. *Queer Majority*, June 2023
8. **Wright, CM.**, and Samuel Stagg. Gender Ideology's Shaky Twin Pillars. *City Journal*, May 2023
9. **Wright, CM.** A Biologist Explains Why Sex Is Binary. *The Wall Street Journal*, April 2023
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11. **Wright, CM.** Are There More Than Two Sexes? *City Journal*, March 2023
12. Sapir, L., and **Wright, CM.** How Not to Regulate Pediatric Gender Medicine. *City Journal*, January 2023

2022

1. **Wright, CM.** How Trans Activist Trolls Got Me Deplatformed By PayPal and Etsy. *New York Post*, October 2022.
2. **Wright, CM.** Every Tomboy Is Tagged 'Transgender'. *The Wall Street Journal*, September 2022
3. **Wright, CM.** I Got Thrown Off Etsy and PayPal for Expressing My Belief in Biological Reality. *Quillette*, June 2022
4. **Wright, CM.** You Can't Be the Side of 'Women's Rights' If You Don't Know What a Woman Is. *Newsweek*, May 2022
5. **Wright, CM.** Elon Musk Tweeted My Cartoon. *The Wall Street Journal*, May 2022.
6. **Wright, C.M.** When Asked 'What Are Your Pronouns,' Don't Answer. *The Wall Street Journal*, February 2022.

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7. **Wright, C.M.** On Sex and Gender, The New England Journal of Medicine Has Abandoned Its Scientific Mission. *Quillette*, December 2020.
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9. **Wright, C.M.** JK Rowling Is Right—Sex Is Real and It Is Not a "Spectrum." *Quillette*, June 2020.
10. **Wright, C.M.** and Hilton, E.N. There's No Question of Our Biological Sex. *The Australian*, February 2020.
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13. Malone, W.J., **Wright, C.M.**, Robertson, J.D. No One Is Born in 'The Wrong Body.' *Quillette*, September 2019.

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14. **Wright, C.M.** The New Evolution Deniers. *Quillette*, November 2018.

Journals I have reviewed for: *Proceedings of the Royal Society, Animal Behaviour, Behavioral Ecology, Scientific Reports, PLoS One, Journal of Animal Ecology, Behavioral Ecology and Sociobiology, Behavior, Ethology, Journal of Arachnology, Ethology Ecology and Evolution, Israel Journal of Ecology & Evolution,* and *Journal of Insect Science.*

Awards, Grants, and Fellowships

The Pennsylvania State University (State College, PA):

- **Eberly Research Postdoctoral Fellowship (2018 - 2020)**

National Science Foundation:

- **NSF Graduate Research Fellow (2015 - 2018):** $102,000 stipend total over 3 years.

UC Santa Barbara (Santa Barbara, CA):

- **Charles A. Storke Graduate Fellowship Award (2017):** $2,500 (awarded for outstanding academic and research record).

University of Pittsburgh (Pittsburgh, PA):

- **Mary P. Edmonds Award (2014)**: awarded for the publication of an outstanding research paper.
- **McKinley Grant Research Award (2015)**: $2,500
- **McKinley Grant Research Award (2016)**: $2,500
- **McKinley Grant Research Award (2018)**: $2,500
- **Arthur and Barbara Pape Endowment Award (2015)**: $1,000
- **Arthur and Barbara Pape Endowment Award (2016)**: $1,000
- **Arthur and Barbara Pape Endowment Award (2018)**: $1,000

Animal Behaviour Society (2ABS):

- **Student Research Grant (2016):** $2,000

Presentations

- **Animal Behaviour Conference (ABS), 2018 (Milwaukee, Wisconsin):** Individual variation in queen morphology and behavior predict colony performance in the wild.

- **International Society for Behavioral Ecology (ISBE), 2018 (Minneapolis, Minnesota)**: Individual variation in queen morphology and behavior predict colony performance in the wild.
- **Society for Integrative and Comparative Biology (SICB), 2018 (San Francisco, California)**: Exploring the effects of queen personality on fitness and colony success in *Polistes* wasps.
- **Lunch and Learn, 2018 (Santa Barbara, California)**: From queens to colonies: how paper wasp queens determine colony success in nature.
- **Graduate Student Symposium, 2018 (Santa Barbara, California)**: Collective personality and behavioral plasticity influence defensive behavior and collective hunting in a spider society
- **Graduate Student Symposium, 2017 (Santa Barbara, California)**: From queens to colonies: how paper wasp queens determine colony success in nature.
- **Animal Behaviour Conference (ABS), 2017 (Toronto, Canada)**: Exploring the effects of queen personality on fitness and colony success in *Polistes* wasps.
- **International Congress of Arachnology (ICA), 2016 (Golden, Colorado)**: Exploring the relationship between collective personality and behavioral plasticity in warring arthropod societies.
- **International Ethological Conference (IEC), 2015 (Cairns, Australia)**: Exploring the relationship between collective personality and behavioral plasticity in warring arthropod societies.
- **International Society for Behavioral Ecology (ISBE), 2014 (New York City, New York)**: Animal personality aligns task specialization and task proficiency in a spider society.

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	23/10/2023 7:09:45 PM AEDT
Date Accepted for Filing:	23/10/2023 7:09:50 PM AEDT
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Colin Wright**

Address: [redacted]

Occupation: Evolutionary Biologist

Date: 23 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Colin Wright in support of Respondents' defence proceedings affirmed on 23 October 2023	1	1

I, Colin Wright, affirm;

1. I have been retained by the legal representatives for Respondents as an expert in connection with the litigation Roxanne Tickle v Giggle for Girls Pty Ltd & Anor, NSD1148 of 2022. On 9 October 2023, I was instructed by solicitors

Filed on behalf of (name & role of party) Colin Wright, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

representing the Respondents to prepare an independent expert witness statement in the above proceeding. (Exhibited to this my affidavit and marked "**CW1**' is the Letter of Instruction from Alexander Rashidi Lawyers of 9 October 2023 to which I refer).

2. The opinions expressed herein are my own and do not express the views or opinions of my employer.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion.

4. I confirm that in preparing my report I had read the obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth) in the expert evidence practice note in GPN/EXPT (Expert Code) and that I agreed to be bound by the requirements of the rules.

5. I further declare that I have made all inquiries that I believe are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, have been withheld from the Court. The opinions I have expressed in my report are independent and impartial and are based wholly or substantially on my specialised knowledge arising from my training, study, and/or experience. I understand my duty to the Court, and I have compiled with this duty and will continue to do so.

6. I have been asked to review the case filings submitted in this case and provide expert opinion addressing the following questions:

    i. What is biological sex?
    ii. How many biological sexes are there?
    iii. What is a biological male?
    iv. What is a biological female?
    v. What is intersex?
    vi. Is biological sex on a spectrum?
    vii. What are primary biological sex characteristics?
    viii. What are secondary biological sex characteristics?

ix. Is there a relationship between primary biological sex characteristics and biological sex? If so, what is it? If not, why not?

x. Is there a relationship between secondary biological sex characteristics and biological sex? If so, what is it? If not, why not?

xi. Can humans change biological sex?

xii. What is cross-sex hormonal treatment?

xiii. What effect does cross sex hormonal treatment have on a person's:

a. sex?

b. primary biological sex characteristics?

c. secondary biological sex characteristics?

xiv. What effect does the removal of reproductive organs have on a person's:

a. sex?

b. primary biological sex characteristics?

c. secondary biological sex characteristics?

xv. How do human beings recognise biological sex in other humans?

xvi. Are there sex-based differences between the way in which humans recognise biological sex in other humans? If so, why?

xvii. Based on your specialised knowledge, in your opinion is there a scientific explanation as to why Sally Grover determined that the image (below) the Applicant uploaded at onboarding to App was an image depicting a male person

xviii. Based on my education, knowledge, training, experience, and expertise as an evolutionary biologist, I have formed the following opinions and conclusions in response to those questions.

7. Exhibited to this my affidavit and marked "**CW2**" is a copy of the report prepared by me and dated 22 October 2023. That report is 22 pages and includes (amongst other things) my opinion as set out therein and my curriculum vitae.

DocuSigned by:
Colin Wright
5DE17E56E4F8456
Deponent

K Deves
Witness

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Affirmed by the deponent)
at [redacted])
on 23 October 2023)
Before me:)

DocuSigned by:
Colin Wright
5DE17E58E4F8435

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)
First Respondent

SALL GROVER
Second Respondent

This is the exhibit marked "**CW1**" now produced and shown to Colin Wright at the time of swearing his affidavit on 23 October 2023 before me:

K Dewes

Lawyer

Alexander Rashidi Lawyers

Principal Alex Rashidi
Writer Katherine Deves
Direct Line 07 2139 0107
Email Katherine.d@rashidi.com.au
Our ref 23GIG001

9 October 2023

Dr Colin Wright

Attention Dr Colin Wright
By email only [redacted]

Dear Dr Wright,

RE: TICKLE -V- GIGGLE NSD1148/2022 | LETTER OF INSTRUCTION EXPERT WITNESS

---

1. We act for the Respondents, Giggle for Girls Pty Ltd and Sally Grover, in relation to proceedings commenced by the Applicant, Roxanne Tickle in the Federal Court of Australia. Thank you for agreeing to provide an expert report in these proceedings.

2. We confirm we have received your fee schedule as an expert witness. Could you please provide an estimate for your services in this matter?

3. Witnesses in the Federal Court of Australia can appear via Audio-Visual Link.

4. The hearing is scheduled to commence on Tuesday 9 April 2024 and is anticipated to run for 3-4 days. Please ensure that you are available to give evidence during this period if required.

A. Background

5. The proceedings concern and online digital application, Giggle for Girls (**the App**) designed for specifically women only interactions, that could be downloaded and used only on mobile phones. The App is no longer operational and has not been since around August-September 2022.

6. The App was described on Google Play Store and the App Store as "made for Women by Women. Connect on Giggle about the latest issues, politics, gossip, news and more. Promote your business and yourself, find accommodation and roommates, connect privately to discuss your most intimate thoughts all within mutual consent and without unwanted interruptions and misogynistic abuse."

B. The Applicant

7. The Applicant is a natal male. In or about October 2019, he altered his record of sex on his Queensland issued birth certificate from male to female. At the time, a person was only able to do this if they had statutory declarations, from 2 doctors, verifying they had undergone "sexual reassignment surgery". This term is not defined in the legislation.

8. To be permitted on the App, the Applicant was required to take a photograph in real time using the features of the App (a selfie) and then upload it onto the digital platform. The photograph was then assessed by artificial intelligence (**AI**) cloud based application programming interface (API) facial characterisation software called "Kairos", set to determine the person's gender. Kairos was set to 94% accuracy with the view it could be manually overridden by the person who had control over the platform. The AI software granted the Applicant access to the App. The Second Respondent, Ms Grover, who was one of the relevant persons who had control over the AI software, characterised the Applicant's face as that of a male and manually removed the Applicant from the App.

The Applicant's claim

9. The Applicant claims that he has been discriminated against by the Respondents in the area of providing services and making facilities on the ground of his gender identity. available within the meaning of section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**) which provides:

> **22 Goods, services and facilities**
>
> It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:
>
> (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;
>
> (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or
>
> (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

10. The Applicant further claims that in breach of section 22 of the SDA, the First and/or the Second Respondent discriminated against the Applicant on the basis of gender identity within the meaning of section 5B (1) of the SDA by:

a) imposing a condition that would allow access on the App only to cisgender females or determining as having a cisgendered physical characteristic by the Second Respondent on review of a selfie provided when an application was made;
b) excluding the Applicant from using and accessing the App which was otherwise available to cisgender women; and
c) not responding to the Applicant's request for access to the platform. In relation to not being provided access to premises (the App), the Applicant claimed that was treated less favourably than a cisgender woman. The Applicant further claims that was less favourably treated because the Applicant is a transgender woman. Gender identity is defined in section 4 of the SDA:

The Respondent understands "cisgender" in this context to mean females (including legal females, that is, with state issued sex identification as a female) whose appearances conform with a traditionally feminine appearance. The corollary being that transgender females are females (as above) whose appearances do not conform with a traditionally feminine appearance.

In the SDA ***gender identity*** means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth.

11. The Applicant alleges that in breach of s 22 of the SDA, the Respondents discriminated against the Applicant on the basis of gender identity within the meaning of section 5B (2) of the SDA by imposing a condition which has disadvantaged and was likely to continue to disadvantage transgender women because:

    a) they will not be able to gain access to the App as cisgender women would; and
    b) they are vulnerable to disparaging conclusions and exclusion based on their appearance.

12. Section 5B of the SDA provides that:

5B Discrimination on the ground of gender identity

(1) For the purposes of this Act, a person (the ***discriminator***) discriminates against another person (the ***aggrieved person***) on the ground of the aggrieved person's gender identity if, by reason of:
    (a) the aggrieved person's gender identity; or
    (b) a characteristic that appertains generally to persons who have the same gender identity as the aggrieved person; or
    (c) a characteristic that is generally imputed to persons who have the same gender identity as the aggrieved person;

the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person who has a different gender identity.

(2) For the purposes of this Act, a person (the ***discriminator***) discriminates against another person (the ***aggrieved person***) on the ground of the aggrieved person's gender identity if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons who have the same gender identity as the aggrieved person.

(3) This section has effect subject to sections 7B and 7D.

Instructions

13. You are required to provide a report setting out your opinion based on the questions outlined in **Annexure A** (below). In providing your opinion you are required to state your opinion, explain the bases your opinion, and explain how your opinion is based on your specialised knowledge (that is, your training, study or experience).

Your Engagement as an Expert

14. In accordance with your obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth), we **enclose** a copy of expert evidence practice note in GPN/EXPT (Expert Code). Please read the Expert Code and acknowledge that you agree to be bound by in it in your report.

15. Please ensure that your report:

a) Includes a statement of your qualification and experience;

b) Is signed by you;

c) Where the report is lengthy or complex, and ensure a brief summary of the report appears at the beginning of the report;

d) Contains an acknowledgement at the beginning of the report that you have read, understood and comply with the Expert Code.

e) Contains particulars of the training, study or experience by which you have acquired your specialised knowledge.

f) Identifies the questions that you are asked to address and to attach to the report, any documents that records any instructions given to you and other documents and materials that you have been instructed to consider.

g) Sets out separately each of the material, facts, or assumptions on which your opinions are based.

h) Sets out separately from the material facts or assumptions each of your opinions.

i) Sets out the reasons for and any literature or other materials in support of each of your opinions.

j) Contains an acknowledgement that your opinions are based wholly or substantially on the specialised knowledge mentioned subparagraph (e) above; and

k) Comply with the Expert Code.

Next Steps

16. Please advise if you require any additional information for you to prepare your report.

17. We would be grateful if you could please provide us with your report but by no later than AEDST **5pm on Monday, 16 October 2023.**

18. After preparing your report, we will ask you to affirm or swear an affidavit which attaches your report.

Should you have any questions, please do not hesitate to contact our office.

Yours faithfully
Alexander Rashidi Lawyers

Katherine Deves

Katherine Deves
Lawyer

Annexure A

1. What is biological sex?
2. How many biological sexes are there?
3. What is a biological male?
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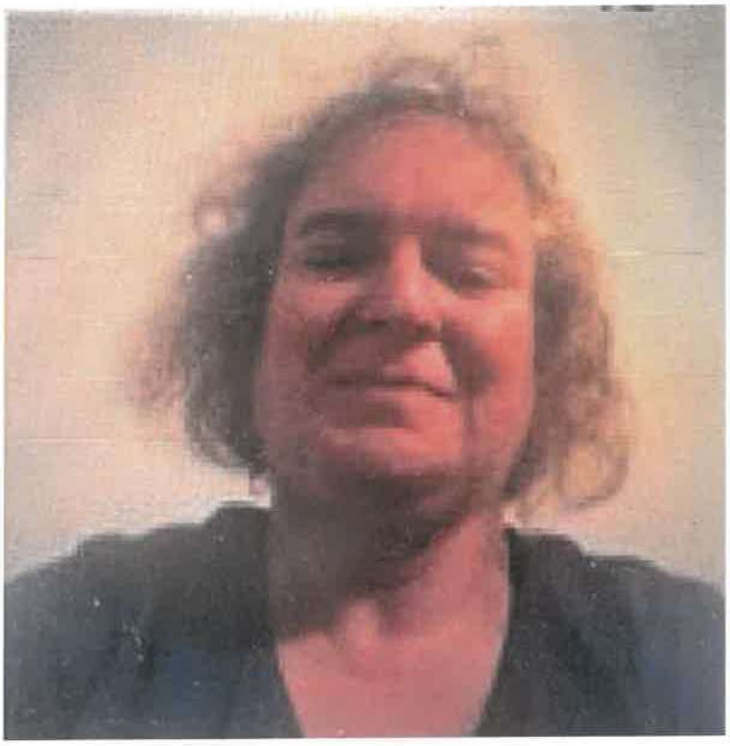
15. How do human beings recognise biological sex in other humans?

16. Are there sex-based differences between the way in which humans recognise biological sex in other humans? If so, why?

17. Based on your specialised knowledge, in your opinion is there a scientific explanation as to why Sally Grover determined that the image (below) the Applicant uploaded at onboarding to App was an image depicting a male person?



FEDERAL COURT OF AUSTRALIA

EXPERT EVIDENCE PRACTICE NOTE (GPN-EXPT)

General Practice Note

1. INTRODUCTION

1.1 This practice note, including the *Harmonised Expert Witness Code of Conduct* ("**Code**") (see **Annexure A**) and the *Concurrent Expert Evidence Guidelines* ("**Concurrent Evidence Guidelines**") (see **Annexure B**), applies to any proceeding involving the use of expert evidence and must be read together with:

(a) the Central Practice Note (CPN-1), which sets out the fundamental principles concerning the National Court Framework ("**NCF**") of the Federal Court and key principles of case management procedure;

(b) the Federal Court of Australia Act 1976 (Cth) ("**Federal Court Act**");

(c) the *Evidence Act 1995* (Cth) ("**Evidence Act**"), including Part 3.3 of the Evidence Act;

(d) Part 23 of the *Federal Court Rules 2011* (Cth) ("**Federal Court Rules**"); and

(e) where applicable, the Survey Evidence Practice Note (GPN-SURV).

1.2 This practice note takes effect from the date it is issued and, to the extent practicable, applies to proceedings whether filed before, or after, the date of issuing.

2. APPROACH TO EXPERT EVIDENCE

2.1 An expert witness may be retained to give opinion evidence in the proceeding, or, in certain circumstances, to express an opinion that may be relied upon in alternative dispute resolution procedures such as mediation or a conference of experts. In some circumstances an expert may be appointed as an independent adviser to the Court.

2.2 The purpose of the use of expert evidence in proceedings, often in relation to complex subject matter, is for the Court to receive the benefit of the objective and impartial assessment of an issue from a witness with specialised knowledge (based on training, study or experience - see generally s 79 of the Evidence Act).

2.3 However, the use or admissibility of expert evidence remains subject to the overriding requirements that:

(a) to be admissible in a proceeding, any such evidence must be relevant (s 56 of the Evidence Act); and

(b) even if relevant, any such evidence, may be refused to be admitted by the Court if its probative value is outweighed by other considerations such as the evidence

being unfairly prejudicial, misleading or will result in an undue waste of time (s 135 of the Evidence Act).

2.4 An expert witness' opinion evidence may have little or no value unless the assumptions adopted by the expert (ie. the facts or grounds relied upon) and his or her reasoning are expressly stated in any written report or oral evidence given.

2.5 The Court will ensure that, in the interests of justice, parties are given a reasonable opportunity to adduce and test relevant expert opinion evidence. However, the Court expects parties and any legal representatives acting on their behalf, when dealing with expert witnesses and expert evidence, to at all times comply with their duties associated with the overarching purpose in the Federal Court Act (see ss 37M and 37N).

3. INTERACTION WITH EXPERT WITNESSES

3.1 Parties and their legal representatives should never view an expert witness retained (or partly retained) by them as that party's advocate or "hired gun". Equally, they should never attempt to pressure or influence an expert into conforming his or her views with the party's interests.

3.2 A party or legal representative should be cautious not to have inappropriate communications when retaining or instructing an independent expert, or assisting an independent expert in the preparation of his or her evidence. However, it is important to note that there is no principle of law or practice and there is nothing in this practice note that obliges a party to embark on the costly task of engaging a "consulting expert" in order to avoid "contamination" of the expert who will give evidence. Indeed the Court would generally discourage such costly duplication.

3.3 Any witness retained by a party for the purpose of preparing a report or giving evidence in a proceeding as to an opinion held by the witness that is wholly or substantially based in the specialised knowledge of the witness[1] should, at the earliest opportunity, be provided with:

(a) a copy of this practice note, including the Code (see Annexure A); and

(b) all relevant information (whether helpful or harmful to that party's case) so as to enable the expert to prepare a report of a truly independent nature.

3.4 Any questions or assumptions provided to an expert should be provided in an unbiased manner and in such a way that the expert is not confined to addressing selective, irrelevant or immaterial issues.

[1] Such a witness includes a "Court expert" as defined in r 23.01 of the Federal Court Rules. For the definition of "expert", "expert evidence" and "expert report" see the Dictionary, in Schedule 1 of the Federal Court Rules.

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4. ROLE AND DUTIES OF THE EXPERT WITNESS

4.1 The role of the expert witness is to provide relevant and impartial evidence in his or her area of expertise. An expert should never mislead the Court or become an advocate for the cause of the party that has retained the expert.

4.2 It should be emphasised that there is nothing inherently wrong with experts disagreeing or failing to reach the same conclusion. The Court will, with the assistance of the evidence of the experts, reach its own conclusion.

4.3 However, experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert.

Harmonised Expert Witness Code of Conduct

4.4 Every expert witness giving evidence in this Court must read the *Harmonised Expert Witness Code of Conduct* (attached in Annexure A) and agree to be bound by it.

4.5 The Code is not intended to address all aspects of an expert witness' duties, but is intended to facilitate the admission of opinion evidence, and to assist experts to understand in general terms what the Court expects of them. Additionally, it is expected that compliance with the Code will assist individual expert witnesses to avoid criticism (rightly or wrongly) that they lack objectivity or are partisan.

5. CONTENTS OF AN EXPERT'S REPORT AND RELATED MATERIAL

5.1 The contents of an expert's report must conform with the requirements set out in the Code (including clauses 3 to 5 of the Code).

5.2 In addition, the contents of such a report must also comply with r 23.13 of the Federal Court Rules. Given that the requirements of that rule significantly overlap with the requirements in the Code, an expert, unless otherwise directed by the Court, will be taken to have complied with the requirements of r 23.13 if that expert has complied with the requirements in the Code and has complied with the additional following requirements. The expert shall:

(a) acknowledge in the report that:

(i) the expert has read and complied with this practice note and agrees to be bound by it; and

(ii) the expert's opinions are based wholly or substantially on specialised knowledge arising from the expert's training, study or experience;

(b) identify in the report the questions that the expert was asked to address;

(c) sign the report and attach or exhibit to it copies of:

(i) documents that record any instructions given to the expert; and

(ii) documents and other materials that the expert has been instructed to consider.

5.3 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the other parties at the same time as the expert's report.

6. CASE MANAGEMENT CONSIDERATIONS

6.1 Parties intending to rely on expert evidence at trial are expected to consider between them and inform the Court at the earliest opportunity of their views on the following:

(a) whether a party should adduce evidence from more than one expert in any single discipline;

(b) whether a common expert is appropriate for all or any part of the evidence;

(c) the nature and extent of expert reports, including any in reply;

(d) the identity of each expert witness that a party intends to call, their area(s) of expertise and availability during the proposed hearing;

(e) the issues that it is proposed each expert will address;

(f) the arrangements for a conference of experts to prepare a joint-report (see *Part 7 of* this practice note);

(g) whether the evidence is to be given concurrently and, if so, how (see Part 8 of this practice note); and

(h) whether any of the evidence in chief can be given orally.

6.2 It will often be desirable, before any expert is retained, for the parties to attempt to agree on the question or questions proposed to be the subject of expert evidence as well as the relevant facts and assumptions. The Court may make orders to that effect where it considers it appropriate to do so.

7. CONFERENCE OF EXPERTS AND JOINT-REPORT

7.1 Parties, their legal representatives and experts should be familiar with aspects of the Code relating to conferences of experts and joint-reports (see clauses 6 and 7 of the Code attached in Annexure A).

7.2 In order to facilitate the proper understanding of issues arising in expert evidence and to manage expert evidence in accordance with the overarching purpose, the Court may require experts who are to give evidence or who have produced reports to meet for the purpose of identifying and addressing the issues not agreed between them with a view to reaching agreement where this is possible ("**conference of experts**"). In an appropriate case, the Court may appoint a registrar of the Court or some other suitably qualified person ("**Conference Facilitator**") to act as a facilitator at the conference of experts.

7.3 It is expected that where expert evidence may be relied on in any proceeding, at the earliest opportunity, parties will discuss and then inform the Court whether a conference of experts and/or a joint-report by the experts may be desirable to assist with or simplify the giving of expert evidence in the proceeding. The parties should discuss the necessary arrangements for any conference and/or joint-report. The arrangements discussed between the parties should address:

(a) who should prepare any joint-report;

(b) whether a list of issues is needed to assist the experts in the conference and, if so, whether the Court, the parties o r the experts should assist in preparing such a list;

(c) the agenda for the conference of experts; and

(d) arrangements for the provision, to the parties and the Court, of any joint-report or any other report as to the outcomes of the conference ("**conference report**").

Conference of Experts

7.4 The purpose of the conference of experts is for the experts to have a comprehensive discussion of issues relating to their field of expertise, with a view to identifying matters and issues in a proceeding about which the experts agree, partly agree or disagree and why. For this reason the conference is attended only by the experts and any Conference Facilitator. Unless the Court orders otherwise, the parties' lawyers will not attend the conference but will be provided with a copy of any conference report.

7.5 The Court may order that a conference of experts occur in a variety of circumstances, depending on the views of the judge and the parties and the needs of the case, including:

(a) while a case is in mediation. When this occurs the Court may also order that the outcome of the conference or any document disclosing or summarising the experts' opinions be confidential to the parties while the mediation is occurring;

(b) before the experts have reached a final opinion on a relevant question or the facts involved in a case. When this occurs the Court may order that the parties exchange draft expert reports and that a conference report be prepared for the use of the experts in finalising their reports;

(c) after the experts' reports have been provided to the Court but before the hearing of the experts' evidence. When this occurs the Court may also order that a conference report be prepared (jointly or otherwise) to ensure the efficient hearing of the experts' evidence.

7.6 Subject to any other order or direction of the Court, the parties and their lawyers must not involve themselves in the conference of experts process. In particular, they must not seek to encourage an expert not to agree with another expert or otherwise seek to influence the outcome of the conference of experts. The experts should raise any queries they may have in relation to the process with the Conference Facilitator (if one has been appointed) or in

accordance with a protocol agreed between the lawyers prior to the conference of experts taking place (if no Conference Facilitator has been appointed).

7.7 Any list of issues prepared for the consideration of the experts as part of the conference of experts process should be prepared using non-tendentious language.

7.8 The timing and location of the conference of experts will be decided by the judge or a registrar who will take into account the location and availability of the experts and the Court's case management timetable. The conference may take place at the Court and will usually be conducted in-person. However, if not considered a hindrance to the process, the conference may also be conducted with the assistance of visual or audio technology (such as via the internet, video link and/or by telephone).

7.9 Experts should prepare for a conference of experts by ensuring that they are familiar with all of the material upon which they base their opinions. Where expert reports in draft or final form have been exchanged prior to the conference, experts should attend the conference familiar with the reports of the other experts. Prior to the conference, experts should also consider where they believe the differences of opinion lie between them and what processes and discussions may assist to identify and refine those areas of difference.

Joint-report

7.10 At the conclusion of the conference of experts, unless the Court considers it unnecessary to do so, it is expected that the experts will have narrowed the issues in respect of which they agree, partly agree or disagree in a joint-report. The joint-report should be clear, plain and concise and should summarise the views of the experts on the identified issues, including a succinct explanation for any differences of opinion, and otherwise be structured in the manner requested by the judge or registrar.

7.11 In some cases (and most particularly in some native title cases), depending on the nature, volume and complexity of the expert evidence a judge may direct a registrar to draft part, or all, of a conference report. If so, the registrar will usually provide the draft conference report to the relevant experts and seek their confirmation that the conference report accurately reflects the opinions of the experts expressed at the conference. Once that confirmation has been received the registrar will finalise the conference report and provide it to the intended recipient(s).

8. CONCURRENT EXPERT EVIDENCE

8.1 The Court may determine that it is appropriate, depending on the nature of the expert evidence and the proceeding generally, for experts to give some or all of their evidence concurrently at the final (or other) hearing.

8.2 Parties should familiarise themselves with the *Concurrent Expert Evidence Guidelines* (attached in Annexure B). The Concurrent Evidence Guidelines are not intended to be exhaustive but indicate the circumstances when the Court might consider it appropriate for

concurrent expert evidence to take place, outline how that process may be undertaken, and assist experts to understand in general terms what the Court expects of them.

8.3 If an order is made for concurrent expert evidence to be given at a hearing, any expert to give such evidence should be provided with the Concurrent Evidence Guidelines well in advance of the hearing and should be familiar with those guidelines before giving evidence.

9. FURTHER PRACTICE INFORMATION AND RESOURCES

9.1 Further information regarding Expert Evidence and Expert Witnesses is available on the Court's website.

9.2 Further information to assist litigants, including a range of helpful guides, is also available on the Court's website. This information may be particularly helpful for litigants who are representing themselves.

J L B ALLSOP
Chief Justice
25 October 2016

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Annexure A

HARMONISED EXPERT WITNESS CODE OF CONDUCT[2]

APPLICATION OF CODE

1. This Code of Conduct applies to any expert witness engaged or appointed:

   (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings; or

   (b) to give opinion evidence in proceedings or proposed proceedings.

GENERAL DUTIES TO THE COURT

2. An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the Court impartially on matters relevant to the area of expertise of the witness.

CONTENT OF REPORT

3. Every report prepared by an expert witness for use in Court shall clearly state the opinion or opinions of the expert and shall state, specify or provide:

   (a) the name and address of the expert;

   (b) an acknowledgment that the expert has read this code and agrees to be bound by it;

   (c) the qualifications of the expert to prepare the report;

   (d) the assumptions and material facts on which each opinion expressed in the report is based [a letter of instructions may be annexed];

   (e) the reasons for and any literature or other materials utilised in support of such opinion;

   (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise;

   (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications;

   (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person;

   (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the

[2] Approved by the Council of Chief Justices' Rules Harmonisation Committee

knowledge of the expert, been withheld from the Court;

(j) any qualifications on an opinion expressed in the report without which the report is or may be incomplete or inaccurate;

(k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason; and

(l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

SUPPLEMENTARY REPORT FOLLOWING CHANGE OF OPINION

4. Where an expert witness has provided to a party (or that party's legal representative) a report for use in Court, and the expert thereafter changes his or her opinion on a material matter, the expert shall forthwith provide to the party (or that party's legal representative) a supplementary report which shall state, specify or provide the information referred to in paragraphs (a), (d), (e), (g), (h), (i), (j), (k) and (l) of clause 3 of this code and, if applicable, paragraph (f) of that clause.

5. In any subsequent report (whether prepared in accordance with clause 4 or not) the expert may refer to material contained in the earlier report without repeating it.

DUTY TO COMPLY WITH THE COURT'S DIRECTIONS

6. If directed to do so by the Court, an expert witness shall:

(a) confer with any other expert witness;

(b) provide the Court with a joint-report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing; and

(c) abide in a timely way by any direction of the Court.

CONFERENCE OF EXPERTS

7. Each expert witness shall:

(a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the Court and in relation to each report thereafter provided, and shall not act on any instruction or request to withhold or avoid agreement; and

(b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.

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ANNEXURE B

CONCURRENT EXPERT EVIDENCE GUIDELINES

APPLICATION OF THE COURT'S GUIDELINES

1. The Court's Concurrent Expert Evidence Guidelines ("**Concurrent Evidence Guidelines**") are intended to inform parties, practitioners and experts of the Court's general approach to concurrent expert evidence, the circumstances in which the Court might consider expert witnesses giving evidence concurrently and, if so, the procedures by which their evidence may be taken.

OBJECTIVES OF CONCURRENT EXPERT EVIDENCE TECHNIQUE

2. The use of concurrent evidence for the giving of expert evidence at hearings as a case management technique[3] will be utilised by the Court in appropriate circumstances (see r 23.15 of the *Federal Court Rules 2011* (Cth)). Not all cases will suit the process. For instance, in some patent cases, where the entire case revolves around conflicts within fields of expertise, concurrent evidence may not assist a judge. However, patent cases should not be excluded from concurrent expert evidence processes.

3. In many cases the use of concurrent expert evidence is a technique that can reduce the partisan or confrontational nature of conventional hearing processes and minimises the risk that experts become "opposing experts" rather than independent experts assisting the Court. It can elicit more precise and accurate expert evidence with greater input and assistance from the experts themselves.

4. When properly and flexibly applied, with efficiency and discipline during the hearing process, the technique may also allow the experts to more effectively focus on the critical points of disagreement between them, identify or resolve those issues more quickly, and narrow the issues in dispute. This can also allow for the key evidence to be given at the same time (rather than being spread across many days of hearing); permit the judge to assess an expert more readily, whilst allowing each party a genuine opportunity to put and test expert evidence. This can reduce the chance of the experts, lawyers and the judge misunderstanding the opinions being expressed by the experts.

5. It is essential that such a process has the full cooperation and support of all of the individuals involved, including the experts and counsel involved in the questioning process. Without that cooperation and support the process may fail in its objectives and even hinder the case management process.

[3] Also known as the "hot tub" or as "expert panels".

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CASE MANAGEMENT

6. Parties should expect that, the Court will give careful consideration to whether concurrent evidence is appropriate in circumstances where there is more than one expert witness having the same expertise who is to give evidence on the same or related topics. Whether experts should give evidence concurrently is a matter for the Court, and will depend on the circumstances of each individual case, including the character of the proceeding, the nature of the expert evidence, and the views of the parties.

7. Although this consideration may take place at any time, including the commencement of the hearing, if not raised earlier, parties should raise the issue of concurrent evidence at the first appropriate case management hearing, and no later than any pre-trial case management hearing, so that orders can be made in advance, if necessary. To that end, prior to the hearing at which expert evidence may be given concurrently, parties and their lawyers should confer and give general consideration as to:

   (a) the agenda;

   (b) the order and manner in which questions will be asked; and

   (c) whether cross-examination will take place within the context of the concurrent evidence or after its conclusion.

8. At the same time, and before any hearing date is fixed, the identity of all experts proposed to be called and their areas of expertise is to be notified to the Court by all parties.

9. The lack of any concurrent evidence orders does not mean that the Court will not consider using concurrent evidence without prior notice to the parties, if appropriate.

CONFERENCE OF EXPERTS & JOINT-REPORT OR LIST OF ISSUES

10. The process of giving concurrent evidence at hearings may be assisted by the preparation of a joint-report or list of issues prepared as part of a conference of experts.

11. Parties should expect that, where concurrent evidence is appropriate, the Court may make orders requiring a conference of experts to take place or for documents such as a joint-report to be prepared to facilitate the concurrent expert evidence process at a hearing (see Part 7 of the Expert Evidence Practice Note).

PROCEDURE AT HEARING

12. Concurrent expert evidence may be taken at any convenient time during the hearing, although it will often occur at the conclusion of both parties' lay evidence.

13. At the hearing itself, the way in which concurrent expert evidence is taken must be applied flexibly and having regard to the characteristics of the case and the nature of the evidence to be given.

14. Without intending to be prescriptive of the procedure, parties should expect that, when evidence is given by experts in concurrent session:

(a) the judge will explain to the experts the procedure that will be followed and that the nature of the process may be different to their previous experiences of giving expert evidence;

(b) the experts will be grouped and called to give evidence together in their respective fields of expertise;

(c) the experts will take the oath or affirmation together, as appropriate;

(d) the experts will sit together with convenient access to their materials for their ease of reference, either in the witness box or in some other location in the courtroom, including (if necessary) at the bar table;

(e) each expert may be given the opportunity to provide a summary overview of their current opinions and explain what they consider to be the principal issues of disagreement between the experts, as they see them, in their own words;

(f) the judge will guide the process by which evidence is given, including, where appropriate:

(i) using any joint-report or list of issues as a guide for all the experts to be asked questions by the judge and counsel, about each issue on an issue-by-issue basis;

(ii) ensuring that each expert is given an adequate opportunity to deal with each issue and the exposition given by other experts including, where considered appropriate, each expert asking questions of other experts or supplementing the evidence given by other experts;

(iii) inviting legal representatives to identify the topics upon which they will cross-examine;

(iv) ensuring that legal representatives have an adequate opportunity to ask all experts questions about each issue. Legal representatives may also seek responses or contributions from one or more experts in response to the evidence given by a different expert; and

(v) allowing the experts an opportunity to summarise their views at the end of the process where opinions may have been changed or clarifications are needed.

15. The fact that the experts may have been provided with a list of issues for consideration does not confine the scope of any cross-examination of any expert. The process of cross-examination remains subject to the overall control of the judge.

16. The concurrent session should allow for a sensible and orderly series of exchanges between expert and expert, and between expert and lawyer. Where appropriate, the judge may allow for more traditional cross-examination to be pursued by a legal representative on a particular issue exclusively with one expert. Where that occurs, other experts may be asked to comment on the evidence given.

17. Where any issue involves *only one* expert, the party wishing to ask *questions about* that issue should let the judge know in advance so that consideration can be given to whether

arrangements should be made for that issue to be dealt with after the completion of the concurrent session. Otherwise, as far as practicable, questions (including in the form of cross-examination) will usually be dealt with in the concurrent session.

18. Throughout the concurrent evidence process the judge will ensure that the process is fair and effective (for the parties and the experts), balanced (including not permitting one expert to overwhelm or overshadow any other expert), and does not become a protracted or inefficient process.

NOTICE OF FILING

Details of Filing

Document Lodged:	Expert Report
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Date of Lodgment:	24/10/2023 9:38:12 AM AEDT
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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "B"

This is the Annexure marked "**B**" now produced and shown to Helen Joyce at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

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Tickle v Giggle

Federal Court of Australia (NSD1148 of 2022)

EXPERT WITNESS OPINION OF

HELEN JOYCE

1. I have been instructed by solicitors representing the Respondents to prepare an independent expert witness statement in the above proceeding. I refer to my letter of instruction dated 15 September 2023.

2. I am the director of advocacy of Sex Matters, a human-rights organisation in the United Kingdom concerned with clarity about sex in law and policy. Sex Matters undertakes research, monitoring and legal analysis of issues concerning the definition and use of terms relating to sex (viz. male and female), gender identity and sexual orientation to protect human rights. It is a non-partisan and non-religious organisation founded on human rights principles.

3. I am also a journalist and author of the book *Trans: When Ideology Meets Reality* published in 2021 (recently reissued as *Trans: Gender Identity and the New Battle for Women's Rights*), OneWorld Publications, 5th May 2022. I have written extensively about the importance of clarity about sex, and the threat posed to women's and children's human rights and wellbeing by "gender-identity ideology": that is, the notion that what makes someone a man or woman is not biological sex but self-declared membership of these categories.

4. My instructions were to provide my opinion on:

   a) The importance of a biology-based definition of sex to human rights, especially women's rights;

   b) The importance to women's rights of being free to use sex-based language;

   c) The importance of single-sex spaces, including virtual and digital spaces, for women's participation in public life;

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d) Why allowing men (natal males) who identify as women into spaces (physical and digital) designated female-only is incompatible with women's human rights and women's ability to fully participation in public life.

5. I confirm that in preparing my report I had read the obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth) in the expert evidence practice note in GPN/EXPT (Expert Code) and that I agree to be bound by the requirements of the rules.

6. I further declare that I have made all inquiries that I believe are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, have been withheld from the Court. The opinions I have expressed in my report are independent and impartial and are based wholly or substantially on my specialised knowledge arising from my training, study, and/or experience. I understand my duty to the Court, and I have compiled with this duty and will continue to do so.

The definition of sex and the words that relate to the two sexes

7. Male and female are fundamental concepts which relate to the reproductive anatomies that have evolved to fulfil the function of sexual reproduction. This is true of humans, all other mammals and indeed all sexually reproducing organisms. This concept predates human society, any legal system and any type of language. In ordinary usage, and in all laws until recently, the word for a male adult is "man" and the word for a female adult is "woman". These words are usually applied by humans in respect of one another based on observation, which is almost always accurate.[1]

8. Every human being is either male or female, defined by their reproductive anatomy. It is not possible for a human being (or indeed any mammal) to literally change sex. This is both scientifically true and common knowledge but has recently become controversial in some circles.

[1] *Gender discrimination in biological motion displays based on dynamic cues*, George Mather and L. Murdoch Published: 22 December 1994 https://doi.org/10.1098/rspb.1994.0173 and *Sex Categorization of Faces: The Effects of Age and Experience*, Anne Hillairet de Boisferon https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6396056/.

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9. A group of scientists ("Project Nettie"[2]) has produced a joint statement which summarises the basic scientific understanding of the concept of the sexes, stating:

> "In mammals, there are two types of gamete and two classes of reproductive anatomy. The male sex class produces many small motile gametes – sperm – for transfer. The female sex class produces few large immobile gametes – ova – and gestates/delivers live young. In any individual, reproductive anatomy is almost always unambiguously male or female and observed correctly at birth, regardless of ultimate sexual function or dysfunction."

And

> "Biological sex is fundamentally defined by male and female reproductive anatomy. Attempts to recast biological sex as a social construct, which then becomes a matter of chosen individual identity, are wholly ideological, scientifically inaccurate and socially irresponsible."

B. Gender-identity beliefs and terms

8. Some people subscribe to a belief system that has arisen in recent years that departs from these standard meanings. It attaches the words male/female and man/woman to self-declared inner identities that have no corporeal or material correlate. In *Trans: When Ideology Meets Reality*, I call this belief system "gender-identity ideology", and describe it as:

> "a fast-developing belief system which sees everyone as possessing a gender identity that may or may not match the body in which it is housed. When there is a mismatch, the person is 'transgender' – trans for short – and it is the identity, not the body, that should determine how everyone else sees and treats them."[3]

[2] https://projectnettie.wordpress.com/
[3] Joyce, H (2021) *Trans: When Ideology meets Reality*. OneWorld

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9. In the Yogyakarta Principles[4], a declaration developed in 2007 by a voluntary, self-selected group which has no formal status in either international law or the domestic law of any country, "gender identity" is said to refer to:

> "each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms."

10. People who identify as transgender may adopt aspects of appearance stereotypically associated with members of the opposite sex, such as clothing, hairstyle, make-up and mannerisms. They may adopt a new name (either officially or informally) and ask to be referred to by different pronouns.

11. A minority of trans-identified people take medications that suppress their natural production of testosterone or oestrogen, or take "cross-sex hormones" (i.e. a man taking oestrogen or a woman taking testosterone). This induces the appearance of some secondary sex characteristics typical of the opposite sex, for example, allowing a man to develop fuller breasts and to experience a decrease in muscle mass and increase in fat distribution on the face, buttocks and hips; and a woman to grow a beard and develop male pattern baldness and a somewhat deeper voice. Further surgeries include mastectomy or breast augmentation, body-sculpting cosmetic surgery and facial feminisation or masculinisation surgery. Very few people undertake genital surgery, whereby a man may have his testicles and the inner part of his penis removed, with the skin inverted into a "neo-vagina"; or a woman may have a "neo-phallus" constructed using tissue from her genitals together with skin and other tissue from her arm or thigh.

12. The majority of those who identify as transgender do not have any surgery. The UK trans-rights organisation Stonewall estimates that around 600,000 people in the UK may identify as transgender, non-binary or gender-variant. This is in the order of 100 times the probable number of genital surgeries carried out in the UK

[4] https://data.unaids.org/pub/manual/2007/070517_yogyakarta_principles_en.pdf

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since the procedure was developed.[5] Similar data on the prevalence of surgery amongst trans-identifying people is found in meta-analysis of data from other countries. Data from studies suggest that just 3% of the transgender community undergo any medical treatment, with genital surgery being the most uncommon procedure.[6]

13. Thus, a man may identify as a "woman", "girl", "trans woman", "transgender woman", "female", "femme", "transfeminine", among other terms, but he will remain biologically a man and male. In a minority of cases his facial and physical appearance will have been partially altered by hormones or surgery to appear more female, but in most cases the fact that he is male will be readily discernible. Similarly, a woman whose gender identity is "man", "boy", "trans man", "transgender man", "male", "masc", "transmasc" or other terms remains biologically a woman and female, and it will usually be easily discernible that she is female too.

C. Men and women: changing legal categories

14. In 2004, the Gender Recognition Act (GRA) was passed in the UK. It is of interest to the current discussion because it was the first national law anywhere in the world that permitted people to change their sex for the purposes of some (not all) laws without having undergone surgery to make their genitals look more similar to those of the opposite sex. It was thus the first time a government granted the status for any law of one sex to people who retained the genitalia of the opposite sex. The safeguards included in the law are instructive.

15. The GRA enables people to obtain a "gender-recognition certificate" (GRC) by having two doctors attest a diagnosis of gender dysphoria (severe distress at the fact of one's sex) and presenting evidence (such as bills with a change of name and honorific) showing that they have presented themselves as a member of the opposite sex for at least two years.

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[5] Fair Play for Women (2018) The vast majority of male-born transwomen still have a penis https://fairplayforwomen.com/penis/

[6] Collin L, Reisner SL, Tangpricha V, Goodman M. Prevalence of Transgender Depends on the "Case" Definition: A Systematic Review. J Sex Med. 2016 Apr;13(4):613-26. doi: 10.1016/j.jsxm.2016.02.001. Epub 2016 Mar 25. PMID: 27045261; PMCID: PMC4823815. https://pubmed.ncbi.nlm.nih.gov/27045261/

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16. A GRC enables its holder to apply for a new birth certificate with the sex changed. It is a deeming provision for certain UK laws that refer to men and women (such as marriage). It does not change a person's sex for the purpose of all laws (laws relating to inheritance, parenthood and sex crimes were expressly excluded). When a legal provision that mentions sex is silent on whether a GRC should be taken to change a person's sex, the default is that it does. Whether it changes a person's sex for the purposes of sex-discrimination laws is currently the subject of a legal challenge in the UK.[7]

17. The GRA does not place any obligation on private individuals to refer to or treat someone as their "acquired gender" (i.e. that opposite to their biological sex). As Lady Hale states in R (on the application of C) (Appellant) v Secretary of State for Work and Pensions (Respondent) [USC 2017]:

> "There is nothing in section 9 to require that the previous state of affairs be expunged from the records of officialdom. Nor could it eliminate it from the memories of family and friends who knew the person in another life. Rather, sections 10 and 22 provide additional protection against inappropriate official disclosure of that prior history."

18. At the time when the GRA was passed, it was explicitly recognised that the law would not require individuals to change their beliefs of conscience. As the UK's Joint Committee on Human Rights stated:

> "Members of religious groups may consider that a person remains a man in the eyes of God even after being recognized as being a woman in the eyes of the state (or vice versa). To preserve the religious freedom to refuse to marry a person in his or her acquired gender, the Draft Bill provides that no clergyman is obliged to solemnize the marriage of a person whose gender has become the acquired gender under the Draft Bill, and that no clerk in Holy Orders in the Church of Wales is obliged to permit the marriage of such a person to be solemnized in the church or chapel of which he is the minister."

19. At the time of the GRA, the notion of "sex change" was understood to solely concern adults. Although a few clinics in various countries (including the Gender

[7] https://forwomen.scot/18/06/2023/judicial-review-appeal/

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Identity Development Service at the Tavistock and Portman Trust in London) saw children (mostly pre-pubertal boys) with what was known as "gender-identity disorder", the concept of a "trans child" had not yet been invented. Only one or two clinics worldwide offered medications such as puberty-blockers and cross-sex hormones to minors, and solely on an experimental basis. None offered surgery on minors' chests or genitals. Studies clearly demonstrated that children with gender-identity disorder almost always grew out of it, ceasing to be distressed by their natal sex (and that the majority grew up to be gay).[89]

20. Since then there has been a huge increase in transgender identification among minors. This has become especially common among teenage girls, including among girls who did not display gender non-conformity in early youth and showed no precursor signs of discomfort with their natal sex.[10] These children are now often "socially transitioned" – presented by their families to the world as members of the opposite sex. This is a mass social experiment unforeseen by laws intended to accommodate a tiny number of exceptional adults. The parents of these children, who have in effect told their children that the world will accept them as members of the opposite sex, have become a powerful lobby for destroying the category of sex in law, since this is the only way to make good on that implicit promise.

21. "Gender-critical" beliefs (that sex is real, immutable and important) have been described by the UK High Court as "expressions of opinion on a topic of current controversy… which are congruent with the views of a number of respected academics who hold gender-critical views and do so for profound socio-philosophical reasons".[11] They have been found to be "worthy of respect in a democratic society" and covered by the protected characteristic of "religion or belief" in the UK Equality Act (2010).[12]

22. Since the passage of the UK Gender Recognition Act several jurisdictions, including Argentina, Ireland and Malta, have introduced "gender self-

[8] http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html, Cantor, J. (2016)
[9] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8039393/ A Follow-Up Study of Boys With Gender Identity Disorder, Singh, D., Bradley, S.Jl, Zucker, K.J.
[10] Irreversible Damage: The Transgender Craze Seducing Our Daughters, Shrier, A., (2020) Regnery Publishing
[11] Miller v College of Policing [2020] https://www.judiciary.uk/wp-content/uploads/2022/07/Miller-v-College-of-Policing-judgment-201221.pdf
[12] Forstater v CGD [2021]). https://www.gov.uk/employment-appeal-tribunal-decisions/maya-forstater-v-cgd-europe-and-others-ukeat-slash-0105-slash-20-slash-joj

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identification", permitting people to change the sex recognised in law for some or all purposes, without the same safeguards. Some jurisdictions, including New York City[13] and the US state of California[14], have passed laws that have the effect that in employment or service provision, all sex-related criteria must be read as referring to self-declared gender identity.

23. In summary, it is now the case that in some jurisdictions, for some or all legal purposes, the categories of "male" and "female" are mixed-sex. However, this cannot change either the material reality of the two sexes or private individuals' perceptions, beliefs, and conscience.

D. Why women need women-only spaces

22. Until recently, it was understood that the physical and behavioural differences between men and women, societal disparities remaining from the long history of male political, religious, and social hegemony, and the reality of sexual reproduction, meant that fully including women in public life required excluding men from certain spaces. These included spaces where women are naked, sleeping or otherwise vulnerable to sexual assault and non-contact sexual crimes, such as voyeurism and exhibitionism, but also spaces intended for positive action and mutual aid, as well as female-only sports for the purposes of fairness.

23. Sex separation in communal toilets, baths and the like has been common since antiquity, and a key purpose has always been to protect girls and women from sexual assault and harassment. The need for sex-separated toilets only became more acute as more women worked and girls worked outside the home from the Industrial Revolution onwards, and safe women-only facilities were a key demand of those organising to represent their interests to employers.[15]

24. As the concepts of sex and gender identity have become conflated, supposedly female-only spaces have increasingly been opened to men who identify as

[13] https://www.nyc.gov/site/cchr/law/legal-guidances-gender-identity-expression.page
[14] https://selfhelp.courts.ca.gov/gender-recognition/update-gender-marker-ID-documents
[15] Sexism in the 'Bathroom Debates': How Bathrooms Really Became Separated by Sex, Carter, W. Burlette, George Washington University Law School

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women. Tautologically, that means those spaces are no longer female-only. Right of entry may formally be limited to men who have official ID stating their sex as female. But in practice this makes it hard or impossible to exclude any man who seeks entry, since it means perception of male sex can no longer be used to turn people away.

25. It is sometimes suggested that having undergone genital surgery offers a fair condition for permitting a man to enter female-only spaces. But this is unworkable. For most spaces and services, it will be deeply inappropriate and indeed impossible to ask about, let alone check, the state of people's external genitalia.

26. Either women can exclude all people who are biologically male from spaces and services designated female-only, or they can't. And if they can't, then there can be no female-only spaces.

(a) Safety

26. Men are on average much stronger than women, and the difference is greatest in upper-body strength. Most men can overpower most women with their bare hands. Men commit most violent crimes and nearly all sexual crimes. Men can use toilets without getting undressed; women must uncover the bottom part of their bodies, including their external genitalia. Men are the sex that impregnate; women are the sex that is impregnated.

27. All this means that men pose risks to women that other women do not pose. These risks include physical violence, sexual violence, and non-contact sex crimes, including exhibitionism and voyeurism. All of these are far more often perpetrated by men than by women; women's involvement in non-property crime is almost always as victim rather than perpetrator. In places where it is necessary to disrobe, women are much less at risk of becoming victim of any of these crimes if no men can enter.

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28. These places include public toilets (except for entirely enclosed single-user facilities), communal changing-rooms and showers (including those with separate cubicles, since the shared areas provide plausible deniability for men to expose themselves "accidentally on purpose" or for a towel to conveniently slip), dormitories, hostels, shelters, and prisons.

29. The point is not that all men are violent, sex criminals or rapists; it's that almost all violent or sexual crimes against women are committed by men, and women cannot know in advance which men will commit them. Excluding all males, however they identify, is a crime-reduction measure that is proportionate, given the overwhelming differences in strength and offending patterns between the sexes, and the grave impact of assault and sex crimes on women. No other arrangement is as effective in reducing risk for women. Any "trans inclusion" policy comes at the cost of increasing the number of assaults of women.

(b) Privacy and dignity

30. When it comes to which body parts should be covered in public, in which situations it is okay to be naked and how much touching is acceptable between unrelated people, cultural norms vary a great deal. But whatever the culture, norms almost always distinguish between being looked at or touched by a person of the same sex or a person of the opposite sex. Some religions, including Orthodox Judaism, some strands of Islam and some Christian creeds, require believers to cover their bodies when in the presence of unrelated people of the opposite sex, and/or to avoid being touched by them. These rules may apply only to women or to both sexes.

31. Individuals also vary a great deal on this measure. Some people like to hug; others hate being touched by anyone but close relatives. Some people wear revealing clothing; others are modest or bashful. Again, individuals are likely to feel differently depending on whether those touching or looking are of their own sex or the opposite sex.

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32. These differences, both cultural and personal, mean that consent to being touched or looked at very often depends on the sex of the person doing the looking or touching. If a person is asked to grant consent for such looking or touching, and does so on condition that it is done by a person of the same sex, any person of the opposite sex who takes that consent as applying to them is likely to be committing assault, and depending on the situation, a contact or non-contact sex crime. A woman who does not want to be seen or touched by a man is not going to feel any different about it if that man thinks he is a woman, or if he has a government-issued ID saying he is a woman. These things may be important to the man, but can make no material difference to the woman's perception (remember that very few trans-identified people have undergone any surgery, and sex perception is a "ceiling", that is near-perfect, skill).

33. Many women will feel the same even if the man is one of the tiny minority of trans-identified men who "passes" as a woman. It has long been held in UK law that deception as to sex vitiates consent.[16] Even if a woman does not know that she has been intimately touched or looked at by a man, if she has not given her consent it is still a crime.

34. A significant number of men who identify as women are motivated by a fetishistic attachment to the notion of being or becoming female that is known as autogynephilia[17]. This condition may lead a man to cross-dress for erotic purposes, to look at or produce pornography that has transgender themes, or to seek cross-sex hormones or genital surgery in order to give material substance to his erotic fixation. These actions may lead a man to intrude upon women's spaces, sometimes to photograph himself posing suggestively or masturbating, for example in a women's toilet or changing-room. Male erotic gratification is obviously not the intended purpose of female-only spaces, and the normalisation of access by male people facilitates the use by men for purposes that are experienced by women as alarming, degrading and upsetting.

[16] R v Justine McNally [2013] EWCA Crim 1051, https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Crim/2013/1051.html

[17] https://pubmed.ncbi.nlm.nih.gov/2794988/ The concept of autogynephilia and the typology of male gender dysphoria, Blanchard, R.

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35. A notable feature of the transgender debate is the degree of vitriol and hatred directed at women who oppose granting men rights to enter supposedly female-only spaces. Women face highly personal, sexualised insults and threats, to their persons, livelihoods and freedom of speech and assembly. This can be understood as a type of male violence: men who wish to transgress women's boundaries typically become enraged when women organise to oppose such transgression. Ray Blanchard, the Canadian sexologist who coined the word "autogynephilia", explains this as the fury of men frustrated in their demand that the world sees them as women. Their anger results from "envy of women and resentment at not being accepted by women as one of them", he has said. "They direct their ire at women because it is women who frustrate their desires. Men are largely irrelevant."[18]

(c) Mutual organisation, aid and comfort

36. Basic civil rights and societal freedoms such as voting, owning property, gaining degrees, entering the professions and running businesses are recent achievements for women. Men still hold most of the world's wealth and power, and are enormously over-represented in senior jobs in politics and commerce. More generally, the world is largely designed by and for men. If women are considered at all in product design, town planning, medical procedures, drug trials, technological specifications and many other fields, it is as an afterthought. As author Caroline Criado Perez says:

> "The result of this deeply male-dominated culture is that the male experience, the male perspective, has come to be seen as universal, while the female experience – that of half the global population, after all – is seen as, well, niche."[19]

37. These factors mean that women often need women-only spaces where they can support each other, share information and experiences, boost each other's confidence and consciousness-raise about the barriers they face and ways to

[18] Quoted in "Trans: When Ideology Meets Reality", Joyce, H., 2021, OneWorld Publishing
[19] *Invisible Women: Exposing Data Bias in a World Designed for Men*, Caroline Criado Perez

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overcome them. It is essential that no men are admitted to these spaces, because no man can ever have had the experience of being marginalised or ignored because he is female. (This is not to say that men never experience disadvantage, merely to say that they never experience disadvantage *because they are female*.) Once a man is admitted to a space it by definition ceases to be female-only, and women will not be able to speak as freely about the shared experience *of being women*.

38. Such spaces may be virtual rather than physical. Women carry most of the burden of reproduction and childcare, and do the lion's share of domestic labour and care of sick or elderly relatives. They have less disposable income and less free time than men, and are more tied to the home. The result is that women find it much harder than men to engage in activities outside the home or to engage in public life.

39. Female-only spaces are particularly important when they are organised around experiences that differ by sex. These include life stages that only women experience (menstruation, pregnancy, miscarriage, infertility, childbirth, postpartum depression, premenstrual dysphoric disorder, postpartum perineum pain, postpartum haemorrhaging, breastfeeding, menopause); diseases from which only women suffer (endometriosis, cervical cancer, uterine cancer, ovarian cancer); and experiences that impact differently upon the two sexes (involuntary childlessness, infertility treatment, pregnancy loss). But such issues are not restricted to reproductive biology and healthcare. Women's experiences differ from men's in societal ways, too, for example when it comes to single parenthood or returning to the job market when children leave home, sexual trauma, and harassment. Women seeking mutual support on any of these topics will often gain much more from female-only spaces, either in-person or virtual, and find them much easier to speak freely in.

(d) When strength, speed, stamina and size matter

40. In *Trans: When Ideology Meets Reality*, I summarise the physical differences between men and women, almost all of which play in men's favour when it

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comes to sporting and athletic endeavour. These are such that women can have fair competition, on a par with men, only if *all* males are excluded from the female category.

To quote at length:

> "Adult men... are not only taller and larger than women, but have wider shoulders and narrower hips, bigger muscles that can contract more quickly and powerfully, bigger hearts and lungs, higher blood-oxygenation capacity and stronger bones. Taken together, these differences are very large. The average adult man has 41 percent more non-fat body mass (blood, bones, muscles and so on) than the average woman, 50 percent more muscle mass in his legs and 75 percent more in his arms. His legs are 65 percent stronger, and his upper body is 90 percent stronger. The overwhelming upper-body advantage is nowhere near accounted for by differences in size – as can be seen in weightlifting competitions, where competitors are banded by weight, and the male world champion in each category lifts around 30 percent more than the female one.
>
> "None of these strength, shape or size differences is so great that there is no overlap (though punching power comes close: in a recent test of untrained men and women, the men's average force was 162 percent greater than the women's, and the weakest man in that study could punch harder than the strongest woman)... [But] the sporting advantage bestowed on the male half of humanity swamps all others... In all but a few sports where athleticism counts for little (such as dressage) or flexibility and artistry are central (gymnastics; ice-skating), in mixed-sex competitions it would not matter how exceptional a female was. Prodigies of nature such as Serena Williams, Shelly-Ann Fraser-Pryce and Katie Ledecky would be bumped, not only from the podium, but from the competition."

41. Female-only spaces are even more important for certain subgroups of women. These include:

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(e) Traumatised women

42. Women who have been subjected to male violence, whether in childhood or adulthood, and whether that violence was physical, sexual or in the form of coercive control, may suffer lasting trauma. That trauma may manifest in severe physical and mental reactions to the mere presence of any male, especially in an enclosed space. Recovery may require spaces without men, where women who have suffered similarly can heal together without being retraumatised.

43. In her book *Defending Women's Spaces*, Karen Ingala Smith, a long-time campaigner against male violence who was until October 2023 the chief executive of leading UK women's charity Nia, writes:

> The presence of males, including those who may not identify as men but whom victim-survivors recognise as such, can trigger some women's trauma response. Their presence might mean that victim-survivors of men's violence cannot relax, that they constantly feel on edge, hyper-vigilant, nervous, ready for fight or flight. The exclusion of males from their recovery space, and yes, this includes those who don't identify as men, can support the recovery of many women. Individual men's behaviour and the likelihood that any biological male or may not be abusive is not relevant in this situation. Women experiencing trauma after violence and abuse will, like most of us, almost always instantly read someone – who might be the most kind and gentle trans-identifying male in the world – as male, and they may experience a debilitating trauma response as a result. It's not their fault, it's not a choice and it's not something they can be 'educated out of'. It's not hate. It's not bigotry. It's not transphobia. It is an impact of abuse by men. In order to recover and heal, women need space, support and sometimes therapy – not increased confrontation with a trauma-inducing trigger; and not a mixed-sex space. The resistance to males in abused women's spaces is not about the individual trans person, it is about the women who need to recover."[20]

[20] *Defending Women's Spaces*, Ingala Smith, K., Polity

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44. Ingala Smith describes being forced to accept men as women as a form of gaslighting that may compound the harms traumatised women have already experienced. These women are in a vulnerable position that allows them little pushback against the way that services are delivered, as they know they are at risk of losing access to these services if they do not comply.

(f) Lesbians

45. Same-sex oriented people naturally want to meet in single-sex groups, both for socialising and mutual understanding, and for a chance to form sexual and intimate relationships with people who share their minority sexuality. This is more important for lesbians than for gay men, because significant numbers of men either fetishise lesbianism or regard women's same-sex orientation as an insult or a challenge. "Lesbian" is a popular category on porn sites aimed at men, and lesbians are accustomed to being harassed by men who leer and ask to watch. They are commonly told that they just need "the right man" or "a good fuck". So-called "corrective rape" is the practice of raping a woman who expresses her lack of interest in men to "straighten her out".

    For many lesbians, therefore, a safe place to find mutual support and intimate relationships must exclude all men. This includes straight men who identify as lesbian women; indeed, those men are particularly unwelcome since they are likely to regard themselves as suitable sexual partners for women and may therefore be pushy, aggressive, and entitle

(g) Women from certain faith groups

46. Orthodox Jewish women, many Muslim women and women from certain strands of Christianity adhere to a variety of modesty codes. These may involve covering up hair, faces, legs, arms or other body parts if there are any unrelated men about. These women will be able to find physical relaxation, freedom and comfort in female-only spaces that they cannot find in mixed-sex spaces.

47. This is particularly important for washing (a Muslim woman may find ritual washing impossible without access to a female-only space) and activities that involve wearing fewer clothes, such as swimming. Even the possibility that a man may be present may cause a woman from one of these faith communities to self-exclude, or to be barred by authority figures within her community, rather than bring "shame" upon it.

(h) Male-only spaces

48. Men need single-sex spaces less than women do because men are at minimal risk of violence, sexual assault or coercion by women, and because men are the "default sex" or hegemonic sex in most situations. Nevertheless, male-only spaces are important for privacy and dignity. Many men will not want to use a urinal if there is any chance that a woman may be present, either because they feel bashful or because they fear that exposing their genitals in front of women may be misinterpreted. Men may choose to receive intimate medical examinations only from a male healthcare professional. And though gay men are not subjected to sexual coercion, assault and fetishisation by straight women in the way that lesbians are by straight men, they may also choose to be in single-sex gay spaces for the purposes of friendship, support and finding partners.

49. In summary, to play a full part in public life, women need to be able to enter politics, academia, the workforce etc. on the same footing as men. But in some situations, women also need to be able to draw boundaries that exclude all men, including trans-identified ones. A policy of allowing men to enter designated female-only spaces, whether on the basis of legal gender certification or gender self-ID, is anything but inclusive. It excludes many women from those spaces by making them useless and sometimes dangerous.

E. Sex in the human-rights framework

50. Human rights are indivisible and universal. As stated in the Universal Declaration of Human Rights[21], to which Australia was a founding signatory, everyone is entitled to human rights regardless of their sex:

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as ... sex...

Lack of clarity about sex (in law and organisational policy, language, data collection etc.) and the conflation of gender identity with sex can lead to interference with or violation of these rights.

This holds, in particular, with respect to a number of articles of the UDHR:

- the right not to be subject to degrading treatment (Article 5)
- equal protection against discrimination (Article 7)
- the right to respect for private and family life (Article 12)
- freedom of thought, conscience and religion (Article 18)
- freedom of expression (Article 19)
- freedom of assembly and association (Article 20).

Protection from discrimination on grounds of sex (Article 7)

51. As the UDHR was being written after the second world war, it rapidly became clear that simply stating that men and women have equal rights was not adequate to overcome embedded disadvantages or to recognise the different

[21] https://www.un.org/en/about-us/universal-declaration-of-human-rights

needs, interests and vulnerabilities of women and men. Laws and policies that do not consider the particular interests of women tend to disadvantage them.

52. In 1946 the UN Commission on the Status of Women was established to monitor the situation of women and to promote women's rights. It brought to light areas in which women were denied equality with men.

53. In 1979 the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* was adopted by the UN General Assembly. Australia ratified CEDAW in 1983. By ratifying CEDAW, states agree to take measures to ensure women's full enjoyment of human rights on an equal basis with men, including:

- eradicating stereotyped roles for women and men
- ensuring women's equal participation in public life
- equality before the law
- eliminating discrimination in employment.

54. Neither the UDHR nor CEDAW defines the words "sex", "man" and "woman", but the references in CEDAW to reproduction, pregnancy, confinement, maternity and lactation as relating specifically to women make it clear that these words are used in their time-honoured biological sense. The preamble to CEDAW states that "the role of women in procreation should not be a basis for discrimination". Nevertheless, discrimination based on sex against women continues, violating the principles of equality of rights and respect for human dignity.

55. Distinguishing between men and women is recognised as essential in other places in international human-rights law, for example the Mandela Rules on the treatment of prisoners.[22]

Rule 11(a) says that

[22] https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

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> Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.

Rule 81 says that

> 1. In a prison for both men and women, the part of the prison set aside for women shall be under the authority of a responsible woman staff member who shall have the custody of the keys of all that part of the prison.
>
> 2. No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member.
>
> 3. Women prisoners shall be attended and supervised only by women staff members. This does not, however, preclude male staff members, particularly doctors and teachers, from carrying out their professional duties in prisons or parts of prisons set aside for women.

56. That the female sex is what is meant by the word "women" in the Mandela Rules is clear from Rule 28:

> In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment;

and Rule 48.2:

> Instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

57. These rules are clearly intended to protect female prisoners from violence, sexual violence and predation by males, whether carried out by other prisoners or prison staff. They encode within them an understanding of women's physical

vulnerabilities as the weaker sex, and men's greater strength and propensity to rape and assault women.

58. In order to protect and safeguard women's fundamental rights not to be discriminated against on the basis of sex, and to respect positive measures such as single-sex spaces and services, including women's shelters, support groups and services for women and girls who are victims of violence, it is necessary to be able to identify men and women as distinct groups.

59. The category of sex can be confused by:

- **legal fiction** – where the state allows a person to be legally recognised as being the opposite sex for some purposes
- **self-identification –** where a person declares himself or herself to be the opposite sex (or both or neither), and expects institutions and other people to accept this.

60. If the concept of sex in domestic law becomes obscured or confused, measures intended for the protection of women and the prevention of discrimination against women will not work adequately. If people are not allowed to speak clearly about the two sexes (in both their personal and professional lives), this is corrosive of human rights and their protection insofar as the measures necessary to uphold those rights require recognising the two sexes as distinct groups.

61. Clarity about the two sexes is particularly important in situations where it matters to a woman that a person providing any service (including performing physically intimate procedures) or sharing any space where questions of privacy, dignity or safety arise, will be the same sex as her, that is, female.

62. Indeed, human-rights law may require the statutory recognition of biological sex. The enjoyment of separate-sex and single-sex spaces, when these are required for women's safety, dignity or privacy, and female-only sporting activities when those activities engage size, speed, strength and stamina, is likely to fall within the material scope of **Article 7**.

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The right not to be subject to degrading treatment (Article 5)

63. Degrading treatment includes rape, exhibitionism, voyeurism, exhibitionism, voyeurism and sexual assault. Deception as to sex vitiates consent.

64. If children in school are taught that they cannot use the words and concepts man and woman, male and female, same-sex and opposite-sex clearly (i.e. if they are told that girls can be boys, and boys can be girls), then they are vulnerable to sexual assault and sex by deception (rape). They are also vulnerable to being told to disregard personal boundaries and consent. See, for example, the recent case in Scotland of trans-identified man Andrew Miller ("Amy George"), who was sentenced in October 2023 to 20 years in jail for the abduction and repeated sexual assault of a young girl. Miller was dressed as a woman when he lured the child into his car, which, as the judge noted, misled the child into thinking that accepting a lift was safe. **Article 5** is likely to include being forced to undress in front of members of the opposite sex, being examined by them without consent or being forced to examine them (as may happen to a female police officer or prison guard, if searching policy is based on gender identity rather than sex). Treatment found to breach Article 3 of the European Convention on Human Rights (which corresponds to Article 5 of the UDHR) has included strip-searching in front of an officer of the opposite sex (Valašinas v Lithuania, 2001, § 117). If rules and statements of personal consent about searching and intimate medical examination cannot be expressed clearly, this leads to situations of institutionalised abuse, such as a woman being told she will be searched by another woman, but in fact being searched by a man who identifies as a woman (perhaps with government-issued paperwork stating that he is female).

65. Privacy and consent over who gets to see and touch your body are covered by **Article 12**. Infringements on personal bodily privacy (such as female employees being required to share toilets and changing-rooms with male employees who identify as women) that don't reach the level of nudity and humiliation necessary to engage **Article 5** will fall within the ambit of **Article 12**. Removing clarity about the words "male" and "female" prevents individuals from being able to maintain their own physical and moral integrity through being able to give or withdraw

consent, for example to undressing or sharing intimate spaces with a member of the opposite sex.

Freedom of thought, speech and expression (Articles 18 and 19)

66. Freedom of speech is widely recognised as an essential foundation of liberal democratic societies. **Article 18** says that everyone has the "right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

67. **Article 19** says that everyone has the "right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

68. The right to think, and to use ordinary words and concepts about the world, is a fundamental freedom. Thinking about the two sexes is automatic. An English speaker will think of someone they perceive to be female as "she" and someone they perceive to be male as "he". Many other common words and concepts relate to the sexes: son, daughter, mother, father, husband, wife, lesbian, gay, bisexual, homosexual, and heterosexual.

69. Freedom of speech is not only the freedom to make speeches but the freedom to say the things that you believe, and not to be compelled to say things you do not believe. It pertains not merely to the freedom to impart information, but to the freedom to receive it. When people cannot express themselves in ordinary, clear language, their listeners' rights are impinged upon too.

70. Protection for freedom of expression is not limited to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but extends to those that offend, shock or disturb.

71. People may exercise their freedom of expression by referring to themselves in the way they wish, and by requesting that others refer to them in the same way, such as through the use of "preferred pronouns". But this does not oblige others

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to comply. Blanket prohibitions against "misgendering" (that is, referring to people with words that relate to their sex when they would prefer not to be referred to in this way) destroy freedom of expression and freedom of belief.

72. There are many situations in which a person might especially want to refer to someone else by their sex, even if that person would prefer they did not. For example:

- When they are related to that person (for example a husband or wife, parent or child);
- When giving evidence, having taken an oath to tell the "truth, the whole truth and nothing but the truth";
- To express their religious or non-religious belief that biological sex is immutable, or because they are describing what they see;
- When making an argument about a situation where sex matters, such as policies that allow males to play in women's sports or be assigned to women's prisons;
- When setting, communicating and enforcing entry rules for single-sex services, spaces and associations;
- In a situation involving undressing, sleeping or being otherwise vulnerable (for example, when on a hospital ward);
- When giving consent for sexual contact or for a medical examination or procedure.

73. Freedom of speech and freedom of expression are essential when writing, setting and enforcing rules, regulations and laws, since these require clear language describing shared concepts. A category that cannot be described in easily comprehensible, everyday language cannot become the basis for a law or societal rule. If it is impossible to refer to men as men/male/he/him, then it is impossible to write, communicate and enforce rules that rely on distinguishing between the sexes.

74. It is logically impossible to have a female-only space or service if male people are permitted to enter. It is likewise logically impossible if it is taboo to describe and refer to male people as male, since it will be impossible to explain why certain individuals are not entitled to enter – namely, that they are male.

75. Philosopher Kathleen Stock writes that if we lose a working concept of "female":

> "self-declared trans women (males) may well eventually gain unrestricted access to protected spaces originally introduced to shield females from sexual violence from males. We are already seeing the erosion of these, as companies and charities open formerly female-only spaces such as changing rooms, shared accommodation, swimming ponds, hospital wards, and prisons, to everyone out of a desire not to appear transphobic."[23]

Freedom of assembly and association (Article 20)

76. **Article 20** says that everyone has the right to "freedom of peaceful assembly and association". This includes the right to meet and establish groups and associations based on sex (men or women), sexual orientation (gays, lesbians, bisexuals, heterosexuals or any combination), religion or belief, transgender identity or any other self-determined characteristic.

77. If there is no agreed-upon term for a category of people, or if terms for that category have been obfuscated or made unsayable by social or legal penalties, then that category cannot draw boundaries around itself. If people who share a characteristic are not able to clearly distinguish using ordinary, comprehensible language between themselves and people who do not have that characteristic, then that group cannot say who is in it and who is not, and will therefore be deprived of freedom of association.

78. In summary, being free to use ordinary words to describe the two sexes, without obfuscation, misunderstanding or fear of social or legal penalties, is essential to several fundamental human rights.

F. The real-world impact of conflating sex and gender identity

79. The harms caused by gender-identity ideology are not theoretical. Among them are:

[23] Stock, Kathleen (2018) Changing the Concept of Woman will Have Unintended Harms https://www.economist.com/open-future/2018/07/06/changing-the-concept-of-woman-will-cause-unintended-harms

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- Women holding public meetings to discuss these issues being intimidated and attacked and not defended by the police[24]
- Female prisoners and detainees being searched by male prison officers who identify as women[25]
- Female patients who request a female healthcare professional being examined by male staff members who identify as women[26]
- Women's and girls' sports including males who identify as women, putting fairness and safety for women at risk and leading to self-exclusion of women from sport[27]
- Single-sex associations coming under pressure to include members of the opposite sex[28]
- Single-sex services (such as women's refuges and rape crisis) under pressure to include males who identify as women[29]
- Traumatised women who use single-sex services being told that they are female-only and then facing male staff and male participants[30]
- Women using residential accommodation such as hostels and student halls that are described as female-only finding themselves sharing with men who identify as women[31]
- Victims and witnesses told they must call male assailants "she" and describe them as women[32]
- Gay men and lesbians harassed and discriminated against for saying they are same-sex, not "same gender", attracted[33]

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[24] https://www.dailymail.co.uk/news/article-11903167/Kellie-Jay-Keen-Minshull-AKA-Posie-Parker-flees-New-Zealand-Auckland-tomato-soup-egging-hit.html
[25] https://sex-matters.org/posts/prisons/searching-for-a-simple-answer/
[26] https://a-question-of-consent.net/2020/09/16/doctors/
[27] *Unfair Play: The Battle For Women's Sport*, Davies, S., Swift Press
[28] https://www.dailymail.co.uk/news/article-12401009/Lesbian-speed-dating-event-sparks-transphobia-row-organisers-insist-adult-human-females-attend-popular-weekly-event.html
[29] #NoDebate: Sex, Gender and the Women's Sector, Gosling, M. (forthcoming)
[30] https://unherd.com/2022/07/why-im-suing-survivors-network/
[31] https://www.telegraph.co.uk/news/2023/06/10/man-dressed-woman-female-only-room-astor-victoria-hostel/
[32] https://www.feministcurrent.com/2018/04/27/trans-identified-male-tara-wolf-charged-assault-hyde-park-attack/

- Gay men and lesbians coerced, tricked or pressured into having sexual relations with trans-identifying people of the opposite sex.[34][35]

80. State-supported gender self-identification means that women must submit to non-consensually sharing intimate spaces (where they are undressing, washing, sleeping etc.) and accept being intimately examined by men who identify as women and forced to pretend that those men are women. This takes place in prisons, women's refuges, health-care services, schools and workplaces. If the country in which these infringements take place has implemented international treaties pledging to prevent such abuses, they will, by definition, by contrary to domestic law.

81. Concerning qualified freedoms (belief, speech, expression), restrictions will be unlawful if they involve the use of state power to disproportionately infringe the freedom of people to say that there are two sexes, and that sex cannot change, including applying this principle to speech about individuals, and in particular where this speech is necessary to protect against Article 5 infringements.

82. Sex Matters has published several analyses of these infringements in the UK context. The human-rights framework closely aligns with the UHDR (though note the numbering of rights in the European Convention on Human Rights, which is incorporated into domestic law, differs from that in the UDHR).

83. Three publications are particularly relevant to this evidence.

a) A detailed analysis of more than 6,000 responses to a call for evidence on why people value single-sex spaces and services.[36] This was not a representative sample, but rather a chance for people who valued single-sex spaces to say why.

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[33] https://www.doyleclayton.co.uk/resources/news/allison-bailey-wins-costs-award/
[34] The Hook-Up: A Trans Woman's Guide to the Sex Club Scene, CliniQ, https://s3-eu-west-1.amazonaws.com/assets.mesmac.co.uk/assets/CliniQ-TransWomen-landscape-ONLINE.pdf?mtime=20190301132253
[35] Cruising: A Trans Guy's Guide to the Gay Scene, CliniQ, https://jirosworld.com/transgender/TransGuys-cliniq-safers.pdf
[36] Why single-sex services matter: privacy, dignity, safety and choice, https://sex-matters.org/posts/publications/why-single-sex-services-matter-privacy-dignity-safety-and-choice-3/

Key findings included:

- The most important reason given for wanting single-sex services is privacy and dignity (98% of respondents).
- Nine out of ten respondents were women, but people of both sexes said they prefer single-sex privacy in everyday situations such as changing, washing and using the toilet, and in hospital wards.
- Almost half the women who responded had experienced sexual assault in their lifetime, and this made privacy and security in everyday single-sex services particularly important for them.
- Losing single-sex services harms inclusion. Many women said they self-exclude from services which are no longer provided as single-sex or separate-sex.

b) A separate analysis of responses by lesbians.[37] The key finding was that lesbian-only spaces, both online and "IRL" (in real life) are either disappearing entirely or becoming "trans inclusive" – that is, including heterosexual men who identify as women and therefore as lesbians. This so-called "inclusive" policy was bitterly resented by respondents, and constitutes denial of lesbians' freedom of association.

c) An in-depth series of interviews with leaders in the male violence against women and girls' sector (in preparation for publication at the time of preparation of this statement).[38] Among the topics covered in this research was the impact of mixed-sex provision on service-users. These included:

- **Worsening mental health.** One leader commented: "Survivors are coping with the trauma of what has happened to them... We asked them about their fears, and they expressed fears that men would be there."
- **Risks to safety.** One leader said that having mixed-sex provision "would open the gates for safeguarding concerns. It would become normalised to see men in women's spaces. I would have real

[37] https://sex-matters.org/posts/single-sex-services/lesbians-without-liberty-2/
[38] #NoDebate: Sex, Gender and the Women's Sector, Gosling, M. (forthcoming)

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concerns about the opportunities for women to be further assaulted and abused. It would become legitimised as men are accepted into those spaces."

- **Self-exclusion**. Women leave refuges, according to one interviewee, if they encounter intact males, as it is not safe for them to stay there. When support groups are mixed sex, "What do women do? They don't go. And everyone left behind is congratulating themselves on how smooth the transition has been." It is not just mixed-sex services that can lead women to self-exclude; they may also avoid using services that are not clear about attendance criteria. While some organisations provide single-sex services under the radar, according to one interviewee, "that's not good enough for the women who would otherwise self-exclude from services – and there's plenty of evidence that they do".
- **Poorer-quality support**. Three leaders commented on the negative effects on women of sharing their support services, saying that socialisation and gender norms can lead to transwomen taking up the available space. According to one, transwomen "tend to continue to exhibit typically male behaviours. They may well take over a meeting, take more than their airtime, exhibit physically threatening behaviour, and they threaten legal action." Another said that women are much less likely to share their experiences if there is someone biologically male in the group. "The transwoman dominates the conversation, and the women don't speak. Transwomen's expectations are that they will be listened to through gender norms."
- **The overriding of women's preferences**. For some leaders, the fact that many female survivors and prisoners do not want mixed-sex services should be sufficient as an argument without needing to reference the trauma, self-exclusion, negative effects on self-esteem and other impacts they experience. "I hate that we are having to do this on the basis of dignity and safety," said one. "I did masses of focus groups for [a large public-sector organisation] and asked about women's experiences of women-only services. Women who hadn't

experienced it had the reaction of, 'Yeah, whatever.' Those who had eulogised about it, and I wish that we were allowed to fight for that."

- **Forced compliance.** According to one leader: "The expectation has always been that women will put other people's needs first ahead of themselves. The sense of entitlement from trans-rights activists is something that women have been subjected to their entire lives." Another said, "Women who have been through this trauma want to make you happy. They don't want to bring any more difficulty into their lives. They want to be compliant. In an individual one-to-one environment, they are very clear [that they don't want to share their spaces], but in a group situation, they would be afraid to say that."

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Helen Joyce
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Helen Joyce

23 October

[redacted]

Helen Joyce
United Kingdom
Curriculum Vitae

Career History

2021-date
Director of Advocacy, Sex Matters. I am part of a small team at this new human-rights organisation, which seeks to establish clarity about the meaning of sex in rules and policies, in law and everyday life. In this role I share responsibility with the executive director for policy development and political and media outreach.

Freelance journalist. Newsletter at thehelenjoyce.com; regular column in *The Critic*.

2005-2021
Full-time staff journalist at *The Economist*. During this time I held several increasingly senior roles, starting as education correspondent (2005-09), then Brazil correspondent based in São Paulo (2010-13), International editor (2014-18), Finance editor (2019), executive editor for events (2020) and Britain editor (2021).
Publication: *Trans: When Ideology Meets Reality* (OneWorld 2021).

2002-05
Founding editor for *Significance*, the magazine of the Royal Statistical Society (part-time).

1999-2005
Editor for *Plus*, the online magazine of the Millennium Mathematics Project based at the University of Cambridge (part-time).

Education

1996-98
Post-doctoral Marie Curie Fellow of the European Union, Mathematics Department, University of Jyväskylä, Central Finland.

1995-96
Post-doctoral fellow, Mathematics Department, University of Cardiff.

1992-95
PhD student with British Council Scholarship, Mathematics Department, University College London, with supervisor Professor David Preiss.
Thesis title: *Packing Measures, Packing Dimensions and the Existence of Sets of Positive Finite Measure* (1995)

1991-92
Part III Mathematics, St. John's College Cambridge, British Council Scholarship.

1987-91
B.A. Hons Degree in Mathematics and Statistics, Trinity College Dublin

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
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Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Helen Joyce**

Address: [redacted]

Occupation: Director

Date: 23 October 2023

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Helen Joyce in support of Respondents' defence proceedings affirmed on 24 October 2023	1	2
2	Annexure "**A**", is a copy of the Letter of Instruction from Alexander Rashidi Lawyers of 15 September 2023	3	4
3	Annexure "**B**" is a copy of the report prepared by me and dated 23 October 2023	8	25

Filed on behalf of (name & role of party) Helen Joyce, expert witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by:
Helen Joyce
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Deponent

K. Deves
Witness

1. I am the director of advocacy of Sex Matters, a human-rights organisation in the United Kingdom concerned with clarity about sex in law and policy. Sex Matters undertakes research, monitoring and legal analysis of issues concerning the definition and use of terms relating to sex (viz. male and female), gender identity and sexual orientation to protect human rights. It is a non-partisan and non-religious organisation founded on human rights principles.

2. I am also a journalist and author of the book *Trans: When Ideology Meets Reality* published in 2021 (recently reissued as *Trans: Gender Identity and the New Battle for Women's Rights*), 5th May 2022 Bloomsbury ISBN: 978086 1543724. I have written extensively about the importance of clarity about sex, and the threat posed to women's and children's human rights and wellbeing by "gender-identity ideology": that is, the notion that what makes someone a man or woman is not biological sex but self-declared membership of these categories.

3. On 15 September 2023, I was instructed by solicitors representing the Respondents to prepare an independent expert witness statement in the above proceeding. Annexed to this affidavit and marked "**A**" is the letter of instruction to which I refer together with the Expert Code to which it refers.

4. I confirm that in preparing my report I had read the obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth) in the expert evidence practice note in GPN/EXPT (Expert Code) and that I agreed to be bound by the requirements of the rules.

5. I have made all inquiries that I believe are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, have been withheld from the Court. The opinions I have expressed in my report are independent and impartial and are based wholly or substantially on my specialised knowledge arising from my training, study, and/or experience. I understand my duty to the Court, and I have compiled with this duty and will continue to do so.

6. The matters stated herein are based on my own knowledge and are true to the best of my knowledge, information and belief, my experience and my own inquiries.

DocuSigned by:
Helen Joyce
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Deponent

K Devas

Witness

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7. My instructions were to provide my opinion on:

   a) The importance of a biology-based definition of sex to human rights, especially women's rights;

   b) The importance to women's rights of being free to use sex-based language;

   c) The importance of single-sex spaces, including virtual and digital spaces, for women's participation in public life;

   d) Why allowing men (natal males) who identify as women into spaces (physical and digital) designated female-only is incompatible with women's human rights and women's ability to fully participation in public life.

8. Annexed to this affidavit and marked "**B**" is a copy of the report prepared by me and dated 23 October 2023. That report is 31 pages and includes (amongst other things) my opinion and answers to the questions in paragraph 7 of this affidavit as set out therein and my curriculum vitae.

Affirmed by the deponent [redacted]
on 23 October 2023
Before me:

DocuSigned by:
Helen Joyce
19C16EADBA30477

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was signed and affirmed by the deponent by audio visual link.

***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "A"

This is the Annexure marked "**A**" now produced and shown to Helen Joyce at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

Alexander Rashidi Lawyers

Principal Alex Rashidi
Writer Katherine Deves
Direct Line 07 2139 0107
Email Katherine.d@rashidi.com.au
Our ref 23GIG001

15 September 2023

Helen Joyce
Director – Sex Matters
[redacted]

Attention Helen Joyce
By email only [redacted]

Dear Dr Joyce,

RE: TICKLE -V- GIGGLE NSD1148/2022 | LETTER OF INSTRUCTION EXPERT WITNESS

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1. We act for the Respondents, Giggle for Girls Pty Ltd and Sally Grover, in relation to proceedings commenced by the Applicant, Roxanne Tickle in the Federal Court of Australia. Thank you for agreeing to provide an expert report in these proceedings.

2. We confirm we have received your fee schedule as an expert witness. Could you please provide an estimate for your services in this matter?

3. Witnesses in the Federal Court of Australia can appear via Audio-Visual Link.

4. The hearing is scheduled to commence on Tuesday 9 April 2024 and is anticipated to run for 3-4 days. Please ensure that you are available to give evidence during this period if required.

A. Background

5. The proceedings concern and online digital application, Giggle for Girls (**the App**) designed for specifically women only interactions, that could be downloaded and

used only on mobile phones. The App is no longer operational and has not been since around August-September 2022.

6. The App was described on Google Play Store and the App Store as "made for Women by Women. Connect on Giggle about the latest issues; politics, gossip, news and more. Promote your business and yourself, find accommodation and roommates, connect privately to discuss your most intimate thoughts all within mutual consent and without unwanted interruptions and misogynistic abuse."

B. The Applicant

7. The Applicant is a natal male. In or about October 2019, he altered his record of sex on his Queensland issued birth certificate from male to female. At the time, a person was only able to do this if they had statutory declarations, from 2 doctors, verifying they had undergone "sexual reassignment surgery". This term is not defined in the legislation.

8. To be permitted on the App, the Applicant was required to take a photograph in real time using the features of the App (a selfie) and then upload it onto the digital platform. The photograph was then assessed by artificial intelligence (**AI**) cloud based application programming interface (API) facial characterisation software called "Kairos", set to determine the person's gender. Kairos was set to 94% accuracy with the view it could be manually overridden by the person who had control over the platform. The AI software granted the Applicant access to the App. The Second Respondent, Ms Grover, who was one of the relevant persons who had control over the AI software, characterised the Applicant's face as that of a male and manually removed the Applicant from the App.

The Applicant's claim

9. The Applicant claims that he has been discriminated against by the Respondents in the area of providing services and making facilities on the ground of his gender identity. available within the meaning of section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**) which provides:

22 Goods, services and facilities

It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:

(a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;

(b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or

(c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

10. The Applicant further claims that in breach of section 22 of the SDA, the First and/or the Second Respondent discriminated against the Applicant on the basis of gender identity within the meaning of section 5B (1) of the SDA by:

a) imposing a condition that would allow access on the App only to cisgender females or determining as having a cisgendered physical characteristic by the Second Respondent on review of a selfie provided when an application was made;

b) excluding the Applicant from using and accessing the App which was otherwise available to cisgender women; and

c) not responding to the Applicant's request for access to the platform. In relation to not being provided access to premises (the App), the Applicant claimed that was treated less favourably than a cisgender woman. The Applicant further claims that was less favourably treated because the Applicant is a transgender woman. Gender identity is defined in section 4 of the SDA:

The Respondent understands "cisgender" in this context to mean females (including legal females, that is, with state issued sex identification as a female) whose appearances conform with a traditionally feminine appearance. The corollary being that transgender females are females (as above) whose appearances do not conform with a traditionally feminine appearance.

In the SDA ***gender identity*** means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention

or not), with or without regard to the person's designated sex at birth.

11. The Applicant alleges that in breach of s 22 of the SDA, the Respondents discriminated against the Applicant on the basis of gender identity within the meaning of section 5B (2) of the SDA by imposing a condition which has disadvantaged and was likely to continue to disadvantage transgender women because:

    a) they will not be able to gain access to the App as cisgender women would; and
    b) they are vulnerable to disparaging conclusions and exclusion based on their appearance.

12. Section 5B of the SDA provides that:

5B Discrimination on the ground of gender identity

(1) For the purposes of this Act, a person (the ***discriminator***) discriminates against another person (the ***aggrieved person***) on the ground of the aggrieved person's gender identity if, by reason of:
  (a) the aggrieved person's gender identity; or
  (b) a characteristic that appertains generally to persons who have the same gender identity as the aggrieved person; or
  (c) a characteristic that is generally imputed to persons who have the same gender identity as the aggrieved person;

the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person who has a different gender identity.

(2) For the purposes of this Act, a person (the ***discriminator***) discriminates against another person (the ***aggrieved person***) on the ground of the aggrieved person's gender identity if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons who have the same gender identity as the aggrieved person.

(3) This section has effect subject to sections 7B and 7D.

Instructions

13. You are required to provide a report setting out your opinion based on the questions outlined in **Annexure A** (below). In providing your opinion you are required to state your opinion, explain the bases your opinion, and explain how your opinion is based on your specialised knowledge (that is, your training, study or experience).

Your Engagement as an Expert

14. In accordance with your obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth), we **enclose** a copy of expert evidence practice note in GPN/EXPT (Expert Code). Please read the Expert Code and acknowledge that you agree to be bound by it in your report.

15. Please ensure that your report:

    a) Includes a statement of your qualification and experience;

    b) Is signed by you;

    c) Where the report is lengthy or complex, and ensure a brief summary of the report appears at the beginning of the report;

    d) Contains an acknowledgement at the beginning of the report that you have read, understood and comply with the Expert Code.

    e) Contains particulars of the training, study or experience by which you have acquired your specialised knowledge.

    f) Identifies the questions that you are asked to address and to attach to the report, any documents that records any instructions given to you and other documents and materials that you have been instructed to consider.

    g) Sets out separately each of the material, facts, or assumptions on which your opinions are based.

    h) Sets out separately from the material facts or assumptions each of your opinions.

    i) Sets out the reasons for and any literature or other materials in support of each of your opinions.

    j) Contains an acknowledgement that your opinions are based wholly or substantially on the specialised knowledge mentioned subparagraph (e) above; and

    k) Comply with the Expert Code.

Next Steps

16. Please advise if you require any additional information for you to prepare your report.

17. We would be grateful if you could please provide us with your report but by no later than AEDST **5pm on Monday, 16 October 2023.**

18. After preparing your report, we will ask you to affirm or swear an affidavit which attaches your report.

Should you have any questions please contact our office.

Yours faithfully
Alexander Rashidi Lawyers

Katherine Deves

Katherine Deves
Lawyer

Enclosed: Expert Evidence Practice Note (GPN-EXPT)

Annexure A

1. The importance of a biology-based definition of sex to human rights, especially women's rights;
2. The importance to women's rights of being free to use sex-based language;
3. The importance of single-sex spaces, including virtual and digital spaces, for women's participation in public life;
4. Why allowing men (natal males) who identify as women into spaces (physical and digital) designated female-only is incompatible with women's human rights and women's ability to fully participation in public life.

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FEDERAL COURT OF AUSTRALIA

EXPERT EVIDENCE PRACTICE NOTE (GPN-EXPT)

General Practice Note

1. INTRODUCTION

1.1 This practice note, including the *Harmonised Expert Witness Code of Conduct* ("**Code**") (see **Annexure A**) and the *Concurrent Expert Evidence Guidelines* ("**Concurrent Evidence Guidelines**") (see **Annexure B**), applies to any proceeding involving the use of expert evidence and must be read together with:

(a) the Central Practice Note (CPN-1), which sets out the fundamental principles concerning the National Court Framework ("**NCF**") of the Federal Court and key principles of case management procedure;

(b) the Federal Court of Australia Act 1976 (Cth) ("**Federal Court Act**");

(c) the *Evidence Act 1995* (Cth) ("**Evidence Act**"), including Part 3.3 of the Evidence Act;

(d) Part 23 of the *Federal Court Rules 2011* (Cth) ("**Federal Court Rules**"); and

(e) where applicable, the Survey Evidence Practice Note (GPN-SURV).

1.2 This practice note takes effect from the date it is issued and, to the extent practicable, applies to proceedings whether filed before, or after, the date of issuing.

2. APPROACH TO EXPERT EVIDENCE

2.1 An expert witness may be retained to give opinion evidence in the proceeding, or, in certain circumstances, to express an opinion that may be relied upon in alternative dispute resolution procedures such as mediation or a conference of experts. In some circumstances an expert may be appointed as an independent adviser to the Court.

2.2 The purpose of the use of expert evidence in proceedings, often in relation to complex subject matter, is for the Court to receive the benefit of the objective and impartial assessment of an issue from a witness with specialised knowledge (based on training, study or experience - see generally s 79 of the Evidence Act).

2.3 However, the use or admissibility of expert evidence remains subject to the overriding requirements that:

(a) to be admissible in a proceeding, any such evidence must be relevant (s 56 of the Evidence Act); and

(b) even if relevant, any such evidence, may be refused to be admitted by the Court if its probative value is outweighed by other considerations such as the evidence

being unfairly prejudicial, misleading or will result in an undue waste of time (s 135 of the Evidence Act).

2.4 An expert witness' opinion evidence may have little or no value unless the assumptions adopted by the expert (ie. the facts or grounds relied upon) and his or her reasoning are expressly stated in any written report or oral evidence given.

2.5 The Court will ensure that, in the interests of justice, parties are given a reasonable opportunity to adduce and test relevant expert opinion evidence. However, the Court expects parties and any legal representatives acting on their behalf, when dealing with expert witnesses and expert evidence, to at all times comply with their duties associated with the overarching purpose in the Federal Court Act (see ss 37M and 37N).

3. INTERACTION WITH EXPERT WITNESSES

3.1 Parties and their legal representatives should never view an expert witness retained (or partly retained) by them as that party's advocate or "hired gun". Equally, they should never attempt to pressure or influence an expert into conforming his or her views with the party's interests.

3.2 A party or legal representative should be cautious not to have inappropriate communications when retaining or instructing an independent expert, or assisting an independent expert in the preparation of his or her evidence. However, it is important to note that there is no principle of law or practice and there is nothing in this practice note that obliges a party to embark on the costly task of engaging a "consulting expert" in order to avoid "contamination" of the expert who will give evidence. Indeed the Court would generally discourage such costly duplication.

3.3 Any witness retained by a party for the purpose of preparing a report or giving evidence in a proceeding as to an opinion held by the witness that is wholly or substantially based in the specialised knowledge of the witness[1] should, at the earliest opportunity, be provided with:

(a) a copy of this practice note, including the Code (see Annexure A); and

(b) all relevant information (whether helpful or harmful to that party's case) so as to enable the expert to prepare a report of a truly independent nature.

3.4 Any questions or assumptions provided to an expert should be provided in an unbiased manner and in such a way that the expert is not confined to addressing selective, irrelevant or immaterial issues.

[1] Such a witness includes a "Court expert" as defined in r 23.01 of the Federal Court Rules. For the definition of "expert", "expert evidence" and "expert report" see the Dictionary, in Schedule 1 of the Federal Court Rules.

4. ROLE AND DUTIES OF THE EXPERT WITNESS

4.1 The role of the expert witness is to provide relevant and impartial evidence in his or her area of expertise. An expert should never mislead the Court or become an advocate for the cause of the party that has retained the expert.

4.2 It should be emphasised that there is nothing inherently wrong with experts disagreeing or failing to reach the same conclusion. The Court will, with the assistance of the evidence of the experts, reach its own conclusion.

4.3 However, experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert.

Harmonised Expert Witness Code of Conduct

4.4 Every expert witness giving evidence in this Court must read the *Harmonised Expert Witness Code of Conduct* (attached in Annexure A) and agree to be bound by it.

4.5 The Code is not intended to address all aspects of an expert witness' duties, but is intended to facilitate the admission of opinion evidence, and to assist experts to understand in general terms what the Court expects of them. Additionally, it is expected that compliance with the Code will assist individual expert witnesses to avoid criticism (rightly or wrongly) that they lack objectivity or are partisan.

5. CONTENTS OF AN EXPERT'S REPORT AND RELATED MATERIAL

5.1 The contents of an expert's report must conform with the requirements set out in the Code (including clauses 3 to 5 of the Code).

5.2 In addition, the contents of such a report must also comply with r 23.13 of the Federal Court Rules. Given that the requirements of that rule significantly overlap with the requirements in the Code, an expert, unless otherwise directed by the Court, will be taken to have complied with the requirements of r 23.13 if that expert has complied with the requirements in the Code and has complied with the additional following requirements. The expert shall:

(a) acknowledge in the report that:

(i) the expert has read and complied with this practice note and agrees to be bound by it; and

(ii) the expert's opinions are based wholly or substantially on specialised knowledge arising from the expert's training, study or experience;

(b) identify in the report the questions that the expert was asked to address;

(c) sign the report and attach or exhibit to it copies of:

(i) documents that record any instructions given to the expert; and

(ii) documents and other materials that the expert has been instructed to consider.

5.3 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the other parties at the same time as the expert's report.

6. CASE MANAGEMENT CONSIDERATIONS

6.1 Parties intending to rely on expert evidence at trial are expected to consider between them and inform the Court at the earliest opportunity of their views on the following:

(a) whether a party should adduce evidence from more than one expert in any single discipline;

(b) whether a common expert is appropriate for all or any part of the evidence;

(c) the nature and extent of expert reports, including any in reply;

(d) the identity of each expert witness that a party intends to call, their area(s) of expertise and availability during the proposed hearing;

(e) the issues that it is proposed each expert will address;

(f) the arrangements for a conference of experts to prepare a joint-report (see Part 7 of this practice note);

(g) whether the evidence is to be given concurrently and, if so, how (see Part 8 of this practice note); and

(h) whether any of the evidence in chief can be given orally.

6.2 It will often be desirable, before any expert is retained, for the parties to attempt to agree on the question or questions proposed to be the subject of expert evidence as well as the relevant facts and assumptions. The Court may make orders to that effect where it considers it appropriate to do so.

7. CONFERENCE OF EXPERTS AND JOINT-REPORT

7.1 Parties, their legal representatives and experts should be familiar with aspects of the Code relating to conferences of experts and joint-reports (see clauses 6 and 7 of the Code attached in Annexure A).

7.2 In order to facilitate the proper understanding of issues arising in expert evidence and to manage expert evidence in accordance with the overarching purpose, the Court may require experts who are to give evidence or who have produced reports to meet for the purpose of identifying and addressing the issues not agreed between them with a view to reaching agreement where this is possible ("**conference of experts**"). In an appropriate case, the Court may appoint a registrar of the Court or some other suitably qualified person ("**Conference Facilitator**") to act as a facilitator at the conference of experts.

7.3 It is expected that where expert evidence may be relied on in any proceeding, at the earliest opportunity, parties will discuss and then inform the Court whether a conference of experts and/or a joint-report by the experts may be desirable to assist with or simplify the giving of expert evidence in the proceeding. The parties should discuss the necessary arrangements for any conference and/or joint-report. The arrangements discussed between the parties should address:

(a) who should prepare any joint-report;

(b) whether a list of issues is needed to assist the experts in the conference and, if so, whether the Court, the parties o r the experts should assist in preparing such a list;

(c) the agenda for the conference of experts; and

(d) arrangements for the provision, to the parties and the Court, of any joint-report or any other report as to the outcomes of the conference ("**conference report**").

Conference of Experts

7.4 The purpose of the conference of experts is for the experts to have a comprehensive discussion of issues relating to their field of expertise, with a view to identifying matters and issues in a proceeding about which the experts agree, partly agree or disagree and why. For this reason the conference is attended only by the experts and any Conference Facilitator. Unless the Court orders otherwise, the parties' lawyers will not attend the conference but will be provided with a copy of any conference report.

7.5 The Court may order that a conference of experts occur in a variety of circumstances, depending on the views of the judge and the parties and the needs of the case, including:

(a) while a case is in mediation. When this occurs the Court may also order that the outcome of the conference or any document disclosing or summarising the experts' opinions be confidential to the parties while the mediation is occurring;

(b) before the experts have reached a final opinion on a relevant question or the facts involved in a case. When this occurs the Court may order that the parties exchange draft expert reports and that a conference report be prepared for the use of the experts in finalising their reports;

(c) after the experts' reports have been provided to the Court but before the hearing of the experts' evidence. When this occurs the Court may also order that a conference report be prepared (jointly or otherwise) to ensure the efficient hearing of the experts' evidence.

7.6 Subject to any other order or direction of the Court, the parties and their lawyers must not involve themselves in the conference of experts process. In particular, they must not seek to encourage an expert not to agree with another expert or otherwise seek to influence the outcome of the conference of experts. The experts should raise any queries they may have in relation to the process with the Conference Facilitator (if one has been appointed) or in

accordance with a protocol agreed between the lawyers prior to the conference of experts taking place (if no Conference Facilitator has been appointed).

7.7 Any list of issues prepared for the consideration of the experts as part of the conference of experts process should be prepared using non-tendentious language.

7.8 The timing and location of the conference of experts will be decided by the judge or a registrar who will take into account the location and availability of the experts and the Court's case management timetable. The conference may take place at the Court and will usually be conducted in-person. However, if not considered a hindrance to the process, the conference may also be conducted with the assistance of visual or audio technology (such as via the internet, video link and/or by telephone).

7.9 Experts should prepare for a conference of experts by ensuring that they are familiar with all of the material upon which they base their opinions. Where expert reports in draft or final form have been exchanged prior to the conference, experts should attend the conference familiar with the reports of the other experts. Prior to the conference, experts should also consider where they believe the differences of opinion lie between them and what processes and discussions may assist to identify and refine those areas of difference.

Joint-report

7.10 At the conclusion of the conference of experts, unless the Court considers it unnecessary to do so, it is expected that the experts will have narrowed the issues in respect of which they agree, partly agree or disagree in a joint-report. The joint-report should be clear, plain and concise and should summarise the views of the experts on the identified issues, including a succinct explanation for any differences of opinion, and otherwise be structured in the manner requested by the judge or registrar.

7.11 In some cases (and most particularly in some native title cases), depending on the nature, volume and complexity of the expert evidence a judge may direct a registrar to draft part, or all, of a conference report. If so, the registrar will usually provide the draft conference report to the relevant experts and seek their confirmation that the conference report accurately reflects the opinions of the experts expressed at the conference. Once that confirmation has been received the registrar will finalise the conference report and provide it to the intended recipient(s).

8. CONCURRENT EXPERT EVIDENCE

8.1 The Court may determine that it is appropriate, depending on the nature of the expert evidence and the proceeding generally, for experts to give some or all of their evidence concurrently at the final (or other) hearing.

8.2 Parties should familiarise themselves with the *Concurrent Expert Evidence Guidelines* (attached in Annexure B). The Concurrent Evidence Guidelines are not intended to be exhaustive but indicate the circumstances when the Court might consider it appropriate for

concurrent expert evidence to take place, outline how that process may be undertaken, and assist experts to understand in general terms what the Court expects of them.

8.3 If an order is made for concurrent expert evidence to be given at a hearing, any expert to give such evidence should be provided with the Concurrent Evidence Guidelines well in advance of the hearing and should be familiar with those guidelines before giving evidence.

9. FURTHER PRACTICE INFORMATION AND RESOURCES

9.1 Further information regarding Expert Evidence and Expert Witnesses is available on the Court's website.

9.2 Further information to assist litigants, including a range of helpful guides, is also available on the Court's website. This information may be particularly helpful for litigants who are representing themselves.

J L B ALLSOP
Chief Justice
25 October 2016

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Annexure A

HARMONISED EXPERT WITNESS CODE OF CONDUCT[2]

APPLICATION OF CODE

1. This Code of Conduct applies to any expert witness engaged or appointed:

   (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings; or

   (b) to give opinion evidence in proceedings or proposed proceedings.

GENERAL DUTIES TO THE COURT

2. An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the Court impartially on matters relevant to the area of expertise of the witness.

CONTENT OF REPORT

3. Every report prepared by an expert witness for use in Court shall clearly state the opinion or opinions of the expert and shall state, specify or provide:

   (a) the name and address of the expert;

   (b) an acknowledgment that the expert has read this code and agrees to be bound by it;

   (c) the qualifications of the expert to prepare the report;

   (d) the assumptions and material facts on which each opinion expressed in the report is based [a letter of instructions may be annexed];

   (e) the reasons for and any literature or other materials utilised in support of such opinion;

   (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise;

   (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications;

   (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person;

   (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the

[2] Approved by the Council of Chief Justices' Rules Harmonisation Committee

knowledge of the expert, been withheld from the Court;

(j) any qualifications on an opinion expressed in the report without which the report is or may be incomplete or inaccurate;

(k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason; and

(l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

SUPPLEMENTARY REPORT FOLLOWING CHANGE OF OPINION

4. Where an expert witness has provided to a party (or that party's legal representative) a report for use in Court, and the expert thereafter changes his or her opinion on a material matter, the expert shall forthwith provide to the party (or that party's legal representative) a supplementary report which shall state, specify or provide the information referred to in paragraphs (a), (d), (e), (g), (h), (i), (j), (k) and (l) of clause 3 of this code and, if applicable, paragraph (f) of that clause.

5. In any subsequent report (whether prepared in accordance with clause 4 or not) the expert may refer to material contained in the earlier report without repeating it.

DUTY TO COMPLY WITH THE COURT'S DIRECTIONS

6. If directed to do so by the Court, an expert witness shall:

(a) confer with any other expert witness;

(b) provide the Court with a joint-report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing; and

(c) abide in a timely way by any direction of the Court.

CONFERENCE OF EXPERTS

7. Each expert witness shall:

(a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the Court and in relation to each report thereafter provided, and shall not act on any instruction or request to withhold or avoid agreement; and

(b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.

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ANNEXURE B

CONCURRENT EXPERT EVIDENCE GUIDELINES

APPLICATION OF THE COURT'S GUIDELINES

1. The Court's Concurrent Expert Evidence Guidelines ("**Concurrent Evidence Guidelines**") are intended to inform parties, practitioners and experts of the Court's general approach to concurrent expert evidence, the circumstances in which the Court might consider expert witnesses giving evidence concurrently and, if so, the procedures by which their evidence may be taken.

OBJECTIVES OF CONCURRENT EXPERT EVIDENCE TECHNIQUE

2. The use of concurrent evidence for the giving of expert evidence at hearings as a case management technique[3] will be utilised by the Court in appropriate circumstances (see r 23.15 of the *Federal Court Rules 2011* (Cth)). Not all cases will suit the process. For instance, in some patent cases, where the entire case revolves around conflicts within fields of expertise, concurrent evidence may not assist a judge. However, patent cases should not be excluded from concurrent expert evidence processes.

3. In many cases the use of concurrent expert evidence is a technique that can reduce the partisan or confrontational nature of conventional hearing processes and minimises the risk that experts become "opposing experts" rather than independent experts assisting the Court. It can elicit more precise and accurate expert evidence with greater input and assistance from the experts themselves.

4. When properly and flexibly applied, with efficiency and discipline during the hearing process, the technique may also allow the experts to more effectively focus on the critical points of disagreement between them, identify or resolve those issues more quickly, and narrow the issues in dispute. This can also allow for the key evidence to be given at the same time (rather than being spread across many days of hearing); permit the judge to assess an expert more readily, whilst allowing each party a genuine opportunity to put and test expert evidence. This can reduce the chance of the experts, lawyers and the judge misunderstanding the opinions being expressed by the experts.

5. It is essential that such a process has the full cooperation and support of all of the individuals involved, including the experts and counsel involved in the questioning process. Without that cooperation and support the process may fail in its objectives and even hinder the case management process.

[3] Also known as the "hot tub" or as "expert panels".

CASE MANAGEMENT

6. Parties should expect that, the Court will give careful consideration to whether concurrent evidence is appropriate in circumstances where there is more than one expert witness having the same expertise who is to give evidence on the same or related topics. Whether experts should give evidence concurrently is a matter for the Court, and will depend on the circumstances of each individual case, including the character of the proceeding, the nature of the expert evidence, and the views of the parties.

7. Although this consideration may take place at any time, including the commencement of the hearing, if not raised earlier, parties should raise the issue of concurrent evidence at the first appropriate case management hearing, and no later than any pre-trial case management hearing, so that orders can be made in advance, if necessary. To that end, prior to the hearing at which expert evidence may be given concurrently, parties and their lawyers should confer and give general consideration as to:

   (a) the agenda;

   (b) the order and manner in which questions will be asked; and

   (c) whether cross-examination will take place within the context of the concurrent evidence or after its conclusion.

8. At the same time, and before any hearing date is fixed, the identity of all experts proposed to be called and their areas of expertise is to be notified to the Court by all parties.

9. The lack of any concurrent evidence orders does not mean that the Court will not consider using concurrent evidence without prior notice to the parties, if appropriate.

CONFERENCE OF EXPERTS & JOINT-REPORT OR LIST OF ISSUES

10. The process of giving concurrent evidence at hearings may be assisted by the preparation of a joint-report or list of issues prepared as part of a conference of experts.

11. Parties should expect that, where concurrent evidence is appropriate, the Court may make orders requiring a conference of experts to take place or for documents such as a joint-report to be prepared to facilitate the concurrent expert evidence process at a hearing (see Part 7 of the Expert Evidence Practice Note).

PROCEDURE AT HEARING

12. Concurrent expert evidence may be taken at any convenient time during the hearing, although it will often occur at the conclusion of both parties' lay evidence.

13. At the hearing itself, the way in which concurrent expert evidence is taken must be applied flexibly and having regard to the characteristics of the case and the nature of the evidence to be given.

14. Without intending to be prescriptive of the procedure, parties should expect that, when evidence is given by experts in concurrent session:

(a) the judge will explain to the experts the procedure that will be followed and that the nature of the process may be different to their previous experiences of giving expert evidence;

(b) the experts will be grouped and called to give evidence together in their respective fields of expertise;

(c) the experts will take the oath or affirmation together, as appropriate;

(d) the experts will sit together with convenient access to their materials for their ease of reference, either in the witness box or in some other location in the courtroom, including (if necessary) at the bar table;

(e) each expert may be given the opportunity to provide a summary overview of their current opinions and explain what they consider to be the principal issues of disagreement between the experts, as they see them, in their own words;

(f) the judge will guide the process by which evidence is given, including, where appropriate:

(i) using any joint-report or list of issues as a guide for all the experts to be asked questions by the judge and counsel, about each issue on an issue-by-issue basis;

(ii) ensuring that each expert is given an adequate opportunity to deal with each issue and the exposition given by other experts including, where considered appropriate, each expert asking questions of other experts or supplementing the evidence given by other experts;

(iii) inviting legal representatives to identify the topics upon which they will cross-examine;

(iv) ensuring that legal representatives have an adequate opportunity to ask all experts questions about each issue. Legal representatives may also seek responses or contributions from one or more experts in response to the evidence given by a different expert; and

(v) allowing the experts an opportunity to summarise their views at the end of the process where opinions may have been changed or clarifications are needed.

15. The fact that the experts may have been provided with a list of issues for consideration does not confine the scope of any cross-examination of any expert. The process of cross-examination remains subject to the overall control of the judge.

16. The concurrent session should allow for a sensible and orderly series of exchanges between expert and expert, and between expert and lawyer. Where appropriate, the judge may allow for more traditional cross-examination to be pursued by a legal representative on a particular issue exclusively with one expert. Where that occurs, other experts may be asked to comment on the evidence given.

17. Where any issue involves only one expert, the party wishing to ask questions about that issue should let the judge know in advance so that consideration can be given to whether

arrangements should be made for that issue to be dealt with after the completion of the concurrent session. Otherwise, as far as practicable, questions (including in the form of cross-examination) will usually be dealt with in the concurrent session.

18. Throughout the concurrent evidence process the judge will ensure that the process is fair and effective (for the parties and the experts), balanced (including not permitting one expert to overwhelm or overshadow any other expert), and does not become a protracted or inefficient process.

Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "B"

This is the Annexure marked "B" now produced and shown to Helen Joyce at the time of affirming her affidavit on 23 October 2023 before me:

K Devas

Solicitor for the Respondents

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Tickle v Giggle

Federal Court of Australia (NSD1148 of 2022)

EXPERT WITNESS OPINION OF

HELEN JOYCE

1. I have been instructed by solicitors representing the Respondents to prepare an independent expert witness statement in the above proceeding. I refer to my letter of instruction dated 15 September 2023.

2. I am the director of advocacy of Sex Matters, a human-rights organisation in the United Kingdom concerned with clarity about sex in law and policy. Sex Matters undertakes research, monitoring and legal analysis of issues concerning the definition and use of terms relating to sex (viz. male and female), gender identity and sexual orientation to protect human rights. It is a non-partisan and non-religious organisation founded on human rights principles.

3. I am also a journalist and author of the book *Trans: When Ideology Meets Reality* published in 2021 (recently reissued as *Trans: Gender Identity and the New Battle for Women's Rights*), OneWorld Publications, 5th May 2022. I have written extensively about the importance of clarity about sex, and the threat posed to women's and children's human rights and wellbeing by "gender-identity ideology": that is, the notion that what makes someone a man or woman is not biological sex but self-declared membership of these categories.

4. My instructions were to provide my opinion on:

   a) The importance of a biology-based definition of sex to human rights, especially women's rights;

   b) The importance to women's rights of being free to use sex-based language;

   c) The importance of single-sex spaces, including virtual and digital spaces, for women's participation in public life;

d) Why allowing men (natal males) who identify as women into spaces (physical and digital) designated female-only is incompatible with women's human rights and women's ability to fully participation in public life.

5. I confirm that in preparing my report I had read the obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth) in the expert evidence practice note in GPN/EXPT (Expert Code) and that I agree to be bound by the requirements of the rules.

6. I further declare that I have made all inquiries that I believe are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, have been withheld from the Court. The opinions I have expressed in my report are independent and impartial and are based wholly or substantially on my specialised knowledge arising from my training, study, and/or experience. I understand my duty to the Court, and I have compiled with this duty and will continue to do so.

The definition of sex and the words that relate to the two sexes

7. Male and female are fundamental concepts which relate to the reproductive anatomies that have evolved to fulfil the function of sexual reproduction. This is true of humans, all other mammals and indeed all sexually reproducing organisms. This concept predates human society, any legal system and any type of language. In ordinary usage, and in all laws until recently, the word for a male adult is "man" and the word for a female adult is "woman". These words are usually applied by humans in respect of one another based on observation, which is almost always accurate.[1]

8. Every human being is either male or female, defined by their reproductive anatomy. It is not possible for a human being (or indeed any mammal) to literally change sex. This is both scientifically true and common knowledge but has recently become controversial in some circles.

[1] *Gender discrimination in biological motion displays based on dynamic cues*, George Mather and L. Murdoch Published: 22 December 1994 https://doi.org/10.1098/rspb.1994.0173 and *Sex Categorization of Faces: The Effects of Age and Experience*, Anne Hillairet de Boisferon https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6396056/.

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9. A group of scientists ("Project Nettie"[2]) has produced a joint statement which summarises the basic scientific understanding of the concept of the sexes, stating:

> "In mammals, there are two types of gamete and two classes of reproductive anatomy. The male sex class produces many small motile gametes – sperm – for transfer. The female sex class produces few large immobile gametes – ova – and gestates/delivers live young. In any individual, reproductive anatomy is almost always unambiguously male or female and observed correctly at birth, regardless of ultimate sexual function or dysfunction."

And

> "Biological sex is fundamentally defined by male and female reproductive anatomy. Attempts to recast biological sex as a social construct, which then becomes a matter of chosen individual identity, are wholly ideological, scientifically inaccurate and socially irresponsible."

B. Gender-identity beliefs and terms

8. Some people subscribe to a belief system that has arisen in recent years that departs from these standard meanings. It attaches the words male/female and man/woman to self-declared inner identities that have no corporeal or material correlate. In *Trans: When Ideology Meets Reality*, I call this belief system "gender-identity ideology", and describe it as:

> "a fast-developing belief system which sees everyone as possessing a gender identity that may or may not match the body in which it is housed. When there is a mismatch, the person is 'transgender' – trans for short – and it is the identity, not the body, that should determine how everyone else sees and treats them."[3]

[2] https://projectnettie.wordpress.com/
[3] Joyce, H (2021) *Trans: When Ideology meets Reality*. OneWorld

9. In the Yogyakarta Principles[4], a declaration developed in 2007 by a voluntary, self-selected group which has no formal status in either international law or the domestic law of any country, "gender identity" is said to refer to:

> "each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms."

10. People who identify as transgender may adopt aspects of appearance stereotypically associated with members of the opposite sex, such as clothing, hairstyle, make-up and mannerisms. They may adopt a new name (either officially or informally) and ask to be referred to by different pronouns.

11. A minority of trans-identified people take medications that suppress their natural production of testosterone or oestrogen, or take "cross-sex hormones" (i.e. a man taking oestrogen or a woman taking testosterone). This induces the appearance of some secondary sex characteristics typical of the opposite sex, for example, allowing a man to develop fuller breasts and to experience a decrease in muscle mass and increase in fat distribution on the face, buttocks and hips; and a woman to grow a beard and develop male pattern baldness and a somewhat deeper voice. Further surgeries include mastectomy or breast augmentation, body-sculpting cosmetic surgery and facial feminisation or masculinisation surgery. Very few people undertake genital surgery, whereby a man may have his testicles and the inner part of his penis removed, with the skin inverted into a "neo-vagina"; or a woman may have a "neo-phallus" constructed using tissue from her genitals together with skin and other tissue from her arm or thigh.

12. The majority of those who identify as transgender do not have any surgery. The UK trans-rights organisation Stonewall estimates that around 600,000 people in the UK may identify as transgender, non-binary or gender-variant. This is in the order of 100 times the probable number of genital surgeries carried out in the UK

[4] https://data.unaids.org/pub/manual/2007/070517_yogyakarta_principles_en.pdf

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since the procedure was developed.[5] Similar data on the prevalence of surgery amongst trans-identifying people is found in meta-analysis of data from other countries. Data from studies suggest that just 3% of the transgender community undergo any medical treatment, with genital surgery being the most uncommon procedure.[6]

13. Thus, a man may identify as a "woman", "girl", "trans woman", "transgender woman", "female", "femme", "transfeminine", among other terms, but he will remain biologically a man and male. In a minority of cases his facial and physical appearance will have been partially altered by hormones or surgery to appear more female, but in most cases the fact that he is male will be readily discernible. Similarly, a woman whose gender identity is "man", "boy", "trans man", "transgender man", "male", "masc", "transmasc" or other terms remains biologically a woman and female, and it will usually be easily discernible that she is female too.

C. Men and women: changing legal categories

14. In 2004, the Gender Recognition Act (GRA) was passed in the UK. It is of interest to the current discussion because it was the first national law anywhere in the world that permitted people to change their sex for the purposes of some (not all) laws without having undergone surgery to make their genitals look more similar to those of the opposite sex. It was thus the first time a government granted the status for any law of one sex to people who retained the genitalia of the opposite sex. The safeguards included in the law are instructive.

15. The GRA enables people to obtain a "gender-recognition certificate" (GRC) by having two doctors attest a diagnosis of gender dysphoria (severe distress at the fact of one's sex) and presenting evidence (such as bills with a change of name and honorific) showing that they have presented themselves as a member of the opposite sex for at least two years.

[5] Fair Play for Women (2018) The vast majority of male-born transwomen still have a penis https://fairplayforwomen.com/penis/

[6] Collin L, Reisner SL, Tangpricha V, Goodman M. Prevalence of Transgender Depends on the "Case" Definition: A Systematic Review. J Sex Med. 2016 Apr;13(4):613-26. doi: 10.1016/j.jsxm.2016.02.001. Epub 2016 Mar 25. PMID: 27045261; PMCID: PMC4823815. https://pubmed.ncbi.nlm.nih.gov/27045261/

16. A GRC enables its holder to apply for a new birth certificate with the sex changed. It is a deeming provision for certain UK laws that refer to men and women (such as marriage). It does not change a person's sex for the purpose of all laws (laws relating to inheritance, parenthood and sex crimes were expressly excluded). When a legal provision that mentions sex is silent on whether a GRC should be taken to change a person's sex, the default is that it does. Whether it changes a person's sex for the purposes of sex-discrimination laws is currently the subject of a legal challenge in the UK.[7]

17. The GRA does not place any obligation on private individuals to refer to or treat someone as their "acquired gender" (i.e. that opposite to their biological sex). As Lady Hale states in R (on the application of C) (Appellant) v Secretary of State for Work and Pensions (Respondent) [USC 2017]:

> "There is nothing in section 9 to require that the previous state of affairs be expunged from the records of officialdom. Nor could it eliminate it from the memories of family and friends who knew the person in another life. Rather, sections 10 and 22 provide additional protection against inappropriate official disclosure of that prior history."

18. At the time when the GRA was passed, it was explicitly recognised that the law would not require individuals to change their beliefs of conscience. As the UK's Joint Committee on Human Rights stated:

> "Members of religious groups may consider that a person remains a man in the eyes of God even after being recognized as being a woman in the eyes of the state (or vice versa). To preserve the religious freedom to refuse to marry a person in his or her acquired gender, the Draft Bill provides that no clergyman is obliged to solemnize the marriage of a person whose gender has become the acquired gender under the Draft Bill, and that no clerk in Holy Orders in the Church of Wales is obliged to permit the marriage of such a person to be solemnized in the church or chapel of which he is the minister."

19. At the time of the GRA, the notion of "sex change" was understood to solely concern adults. Although a few clinics in various countries (including the Gender

[7] https://forwomen.scot/18/06/2023/judicial-review-appeal/

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Identity Development Service at the Tavistock and Portman Trust in London) saw children (mostly pre-pubertal boys) with what was known as "gender-identity disorder", the concept of a "trans child" had not yet been invented. Only one or two clinics worldwide offered medications such as puberty-blockers and cross-sex hormones to minors, and solely on an experimental basis. None offered surgery on minors' chests or genitals. Studies clearly demonstrated that children with gender-identity disorder almost always grew out of it, ceasing to be distressed by their natal sex (and that the majority grew up to be gay).[89]

20. Since then there has been a huge increase in transgender identification among minors. This has become especially common among teenage girls, including among girls who did not display gender non-conformity in early youth and showed no precursor signs of discomfort with their natal sex.[10] These children are now often "socially transitioned" – presented by their families to the world as members of the opposite sex. This is a mass social experiment unforeseen by laws intended to accommodate a tiny number of exceptional adults. The parents of these children, who have in effect told their children that the world will accept them as members of the opposite sex, have become a powerful lobby for destroying the category of sex in law, since this is the only way to make good on that implicit promise.

21. "Gender-critical" beliefs (that sex is real, immutable and important) have been described by the UK High Court as "expressions of opinion on a topic of current controversy… which are congruent with the views of a number of respected academics who hold gender-critical views and do so for profound socio-philosophical reasons".[11] They have been found to be "worthy of respect in a democratic society" and covered by the protected characteristic of "religion or belief" in the UK Equality Act (2010).[12]

22. Since the passage of the UK Gender Recognition Act several jurisdictions, including Argentina, Ireland and Malta, have introduced "gender self-

[8] http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html, Cantor, J. (2016)
[9] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8039393/ A Follow-Up Study of Boys With Gender Identity Disorder, Singh, D., Bradley, S.JI, Zucker, K.J.
[10] Irreversible Damage: The Transgender Craze Seducing Our Daughters, Shrier, A., (2020) Regnery Publishing
[11] Miller v College of Policing [2020] https://www.judiciary.uk/wp-content/uploads/2022/07/Miller-v-College-of-Policing-judgment-201221.pdf
[12] Forstater v CGD [2021]). https://www.gov.uk/employment-appeal-tribunal-decisions/maya-forstater-v-cgd-europe-and-others-ukeat-slash-0105-slash-20-slash-joj

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identification", permitting people to change the sex recognised in law for some or all purposes, without the same safeguards. Some jurisdictions, including New York City[13] and the US state of California[14], have passed laws that have the effect that in employment or service provision, all sex-related criteria must be read as referring to self-declared gender identity.

23. In summary, it is now the case that in some jurisdictions, for some or all legal purposes, the categories of "male" and "female" are mixed-sex. However, this cannot change either the material reality of the two sexes or private individuals' perceptions, beliefs, and conscience.

D. Why women need women-only spaces

22. Until recently, it was understood that the physical and behavioural differences between men and women, societal disparities remaining from the long history of male political, religious, and social hegemony, and the reality of sexual reproduction, meant that fully including women in public life required excluding men from certain spaces. These included spaces where women are naked, sleeping or otherwise vulnerable to sexual assault and non-contact sexual crimes, such as voyeurism and exhibitionism, but also spaces intended for positive action and mutual aid, as well as female-only sports for the purposes of fairness.

23. Sex separation in communal toilets, baths and the like has been common since antiquity, and a key purpose has always been to protect girls and women from sexual assault and harassment. The need for sex-separated toilets only became more acute as more women worked and girls worked outside the home from the Industrial Revolution onwards, and safe women-only facilities were a key demand of those organising to represent their interests to employers.[15]

24. As the concepts of sex and gender identity have become conflated, supposedly female-only spaces have increasingly been opened to men who identify as

[13] https://www.nyc.gov/site/cchr/law/legal-guidances-gender-identity-expression.page
[14] https://selfhelp.courts.ca.gov/gender-recognition/update-gender-marker-ID-documents
[15] Sexism in the 'Bathroom Debates': How Bathrooms Really Became Separated by Sex, Carter, W. Burlette, George Washington University Law School

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women. Tautologically, that means those spaces are no longer female-only. Right of entry may formally be limited to men who have official ID stating their sex as female. But in practice this makes it hard or impossible to exclude any man who seeks entry, since it means perception of male sex can no longer be used to turn people away.

25. It is sometimes suggested that having undergone genital surgery offers a fair condition for permitting a man to enter female-only spaces. But this is unworkable. For most spaces and services, it will be deeply inappropriate and indeed impossible to ask about, let alone check, the state of people's external genitalia.

26. Either women can exclude all people who are biologically male from spaces and services designated female-only, or they can't. And if they can't, then there can be no female-only spaces.

(a) Safety

26. Men are on average much stronger than women, and the difference is greatest in upper-body strength. Most men can overpower most women with their bare hands. Men commit most violent crimes and nearly all sexual crimes. Men can use toilets without getting undressed; women must uncover the bottom part of their bodies, including their external genitalia. Men are the sex that impregnate; women are the sex that is impregnated.

27. All this means that men pose risks to women that other women do not pose. These risks include physical violence, sexual violence, and non-contact sex crimes, including exhibitionism and voyeurism. All of these are far more often perpetrated by men than by women; women's involvement in non-property crime is almost always as victim rather than perpetrator. In places where it is necessary to disrobe, women are much less at risk of becoming victim of any of these crimes if no men can enter.

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28. These places include public toilets (except for entirely enclosed single-user facilities), communal changing-rooms and showers (including those with separate cubicles, since the shared areas provide plausible deniability for men to expose themselves "accidentally on purpose" or for a towel to conveniently slip), dormitories, hostels, shelters, and prisons.

29. The point is not that all men are violent, sex criminals or rapists; it's that almost all violent or sexual crimes against women are committed by men, and women cannot know in advance which men will commit them. Excluding all males, however they identify, is a crime-reduction measure that is proportionate, given the overwhelming differences in strength and offending patterns between the sexes, and the grave impact of assault and sex crimes on women. No other arrangement is as effective in reducing risk for women. Any "trans inclusion" policy comes at the cost of increasing the number of assaults of women.

(b) Privacy and dignity

30. When it comes to which body parts should be covered in public, in which situations it is okay to be naked and how much touching is acceptable between unrelated people, cultural norms vary a great deal. But whatever the culture, norms almost always distinguish between being looked at or touched by a person of the same sex or a person of the opposite sex. Some religions, including Orthodox Judaism, some strands of Islam and some Christian creeds, require believers to cover their bodies when in the presence of unrelated people of the opposite sex, and/or to avoid being touched by them. These rules may apply only to women or to both sexes.

31. Individuals also vary a great deal on this measure. Some people like to hug; others hate being touched by anyone but close relatives. Some people wear revealing clothing; others are modest or bashful. Again, individuals are likely to feel differently depending on whether those touching or looking are of their own sex or the opposite sex.

32. These differences, both cultural and personal, mean that consent to being touched or looked at very often depends on the sex of the person doing the looking or touching. If a person is asked to grant consent for such looking or touching, and does so on condition that it is done by a person of the same sex, any person of the opposite sex who takes that consent as applying to them is likely to be committing assault, and depending on the situation, a contact or non-contact sex crime. A woman who does not want to be seen or touched by a man is not going to feel any different about it if that man thinks he is a woman, or if he has a government-issued ID saying he is a woman. These things may be important to the man, but can make no material difference to the woman's perception (remember that very few trans-identified people have undergone any surgery, and sex perception is a "ceiling", that is near-perfect, skill).

33. Many women will feel the same even if the man is one of the tiny minority of trans-identified men who "passes" as a woman. It has long been held in UK law that deception as to sex vitiates consent.[16] Even if a woman does not know that she has been intimately touched or looked at by a man, if she has not given her consent it is still a crime.

34. A significant number of men who identify as women are motivated by a fetishistic attachment to the notion of being or becoming female that is known as autogynephilia[17]. This condition may lead a man to cross-dress for erotic purposes, to look at or produce pornography that has transgender themes, or to seek cross-sex hormones or genital surgery in order to give material substance to his erotic fixation. These actions may lead a man to intrude upon women's spaces, sometimes to photograph himself posing suggestively or masturbating, for example in a women's toilet or changing-room. Male erotic gratification is obviously not the intended purpose of female-only spaces, and the normalisation of access by male people facilitates the use by men for purposes that are experienced by women as alarming, degrading and upsetting.

[16] R v Justine McNally [2013] EWCA Crim 1051, https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWCA/Crim/2013/1051.html

[17] https://pubmed.ncbi.nlm.nih.gov/2794988/ The concept of autogynephilia and the typology of male gender dysphoria, Blanchard, R.

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35. A notable feature of the transgender debate is the degree of vitriol and hatred directed at women who oppose granting men rights to enter supposedly female-only spaces. Women face highly personal, sexualised insults and threats, to their persons, livelihoods and freedom of speech and assembly. This can be understood as a type of male violence: men who wish to transgress women's boundaries typically become enraged when women organise to oppose such transgression. Ray Blanchard, the Canadian sexologist who coined the word "autogynephilia", explains this as the fury of men frustrated in their demand that the world sees them as women. Their anger results from "envy of women and resentment at not being accepted by women as one of them", he has said. "They direct their ire at women because it is women who frustrate their desires. Men are largely irrelevant."[18]

(c) Mutual organisation, aid and comfort

36. Basic civil rights and societal freedoms such as voting, owning property, gaining degrees, entering the professions and running businesses are recent achievements for women. Men still hold most of the world's wealth and power, and are enormously over-represented in senior jobs in politics and commerce. More generally, the world is largely designed by and for men. If women are considered at all in product design, town planning, medical procedures, drug trials, technological specifications and many other fields, it is as an afterthought. As author Caroline Criado Perez says:

> "The result of this deeply male-dominated culture is that the male experience, the male perspective, has come to be seen as universal, while the female experience – that of half the global population, after all – is seen as, well, niche."[19]

37. These factors mean that women often need women-only spaces where they can support each other, share information and experiences, boost each other's confidence and consciousness-raise about the barriers they face and ways to

[18] Quoted in "Trans: When Ideology Meets Reality", Joyce, H., 2021, OneWorld Publishing
[19] *Invisible Women: Exposing Data Bias in a World Designed for Men*, Caroline Criado Perez

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overcome them. It is essential that no men are admitted to these spaces, because no man can ever have had the experience of being marginalised or ignored because he is female. (This is not to say that men never experience disadvantage, merely to say that they never experience disadvantage *because they are female.*) Once a man is admitted to a space it by definition ceases to be female-only, and women will not be able to speak as freely about the shared experience *of being women.*

38. Such spaces may be virtual rather than physical. Women carry most of the burden of reproduction and childcare, and do the lion's share of domestic labour and care of sick or elderly relatives. They have less disposable income and less free time than men, and are more tied to the home. The result is that women find it much harder than men to engage in activities outside the home or to engage in public life.

39. Female-only spaces are particularly important when they are organised around experiences that differ by sex. These include life stages that only women experience (menstruation, pregnancy, miscarriage, infertility, childbirth, postpartum depression, premenstrual dysphoric disorder, postpartum perineum pain, postpartum haemorrhaging, breastfeeding, menopause); diseases from which only women suffer (endometriosis, cervical cancer, uterine cancer, ovarian cancer); and experiences that impact differently upon the two sexes (involuntary childlessness, infertility treatment, pregnancy loss). But such issues are not restricted to reproductive biology and healthcare. Women's experiences differ from men's in societal ways, too, for example when it comes to single parenthood or returning to the job market when children leave home, sexual trauma, and harassment. Women seeking mutual support on any of these topics will often gain much more from female-only spaces, either in-person or virtual, and find them much easier to speak freely in.

(d) When strength, speed, stamina and size matter

40. In *Trans: When Ideology Meets Reality*, I summarise the physical differences between men and women, almost all of which play in men's favour when it

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comes to sporting and athletic endeavour. These are such that women can have fair competition, on a par with men, only if *all* males are excluded from the female category.

To quote at length:

> "Adult men... are not only taller and larger than women, but have wider shoulders and narrower hips, bigger muscles that can contract more quickly and powerfully, bigger hearts and lungs, higher blood-oxygenation capacity and stronger bones. Taken together, these differences are very large. The average adult man has 41 percent more non-fat body mass (blood, bones, muscles and so on) than the average woman, 50 percent more muscle mass in his legs and 75 percent more in his arms. His legs are 65 percent stronger, and his upper body is 90 percent stronger. The overwhelming upper-body advantage is nowhere near accounted for by differences in size – as can be seen in weightlifting competitions, where competitors are banded by weight, and the male world champion in each category lifts around 30 percent more than the female one.
>
> "None of these strength, shape or size differences is so great that there is no overlap (though punching power comes close: in a recent test of untrained men and women, the men's average force was 162 percent greater than the women's, and the weakest man in that study could punch harder than the strongest woman)... [But] the sporting advantage bestowed on the male half of humanity swamps all others... In all but a few sports where athleticism counts for little (such as dressage) or flexibility and artistry are central (gymnastics; ice-skating), in mixed-sex competitions it would not matter how exceptional a female was. Prodigies of nature such as Serena Williams, Shelly-Ann Fraser-Pryce and Katie Ledecky would be bumped, not only from the podium, but from the competition."

41. Female-only spaces are even more important for certain subgroups of women. These include:

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(e) Traumatised women

42. Women who have been subjected to male violence, whether in childhood or adulthood, and whether that violence was physical, sexual or in the form of coercive control, may suffer lasting trauma. That trauma may manifest in severe physical and mental reactions to the mere presence of any male, especially in an enclosed space. Recovery may require spaces without men, where women who have suffered similarly can heal together without being retraumatised.

43. In her book *Defending Women's Spaces*, Karen Ingala Smith, a long-time campaigner against male violence who was until October 2023 the chief executive of leading UK women's charity Nia, writes:

> The presence of males, including those who may not identify as men but whom victim-survivors recognise as such, can trigger some women's trauma response. Their presence might mean that victim-survivors of men's violence cannot relax, that they constantly feel on edge, hyper-vigilant, nervous, ready for fight or flight. The exclusion of males from their recovery space, and yes, this includes those who don't identify as men, can support the recovery of many women. Individual men's behaviour and the likelihood that any biological male or may not be abusive is not relevant in this situation. Women experiencing trauma after violence and abuse will, like most of us, almost always instantly read someone – who might be the most kind and gentle trans-identifying male in the world – as male, and they may experience a debilitating trauma response as a result. It's not their fault, it's not a choice and it's not something they can be 'educated out of'. It's not hate. It's not bigotry. It's not transphobia. It is an impact of abuse by men. In order to recover and heal, women need space, support and sometimes therapy – not increased confrontation with a trauma-inducing trigger; and not a mixed-sex space. The resistance to males in abused women's spaces is not about the individual trans person, it is about the women who need to recover."[20]

[20] *Defending Women's Spaces*, Ingala Smith, K., Polity

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44. Ingala Smith describes being forced to accept men as women as a form of gaslighting that may compound the harms traumatised women have already experienced. These women are in a vulnerable position that allows them little pushback against the way that services are delivered, as they know they are at risk of losing access to these services if they do not comply.

(f) Lesbians

45. Same-sex oriented people naturally want to meet in single-sex groups, both for socialising and mutual understanding, and for a chance to form sexual and intimate relationships with people who share their minority sexuality. This is more important for lesbians than for gay men, because significant numbers of men either fetishise lesbianism or regard women's same-sex orientation as an insult or a challenge. "Lesbian" is a popular category on porn sites aimed at men, and lesbians are accustomed to being harassed by men who leer and ask to watch. They are commonly told that they just need "the right man" or "a good fuck". So-called "corrective rape" is the practice of raping a woman who expresses her lack of interest in men to "straighten her out".

    For many lesbians, therefore, a safe place to find mutual support and intimate relationships must exclude all men. This includes straight men who identify as lesbian women; indeed, those men are particularly unwelcome since they are likely to regard themselves as suitable sexual partners for women and may therefore be pushy, aggressive, and entitle

(g) Women from certain faith groups

46. Orthodox Jewish women, many Muslim women and women from certain strands of Christianity adhere to a variety of modesty codes. These may involve covering up hair, faces, legs, arms or other body parts if there are any unrelated men about. These women will be able to find physical relaxation, freedom and comfort in female-only spaces that they cannot find in mixed-sex spaces.

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47. This is particularly important for washing (a Muslim woman may find ritual washing impossible without access to a female-only space) and activities that involve wearing fewer clothes, such as swimming. Even the possibility that a man may be present may cause a woman from one of these faith communities to self-exclude, or to be barred by authority figures within her community, rather than bring "shame" upon it.

(h) Male-only spaces

48. Men need single-sex spaces less than women do because men are at minimal risk of violence, sexual assault or coercion by women, and because men are the "default sex" or hegemonic sex in most situations. Nevertheless, male-only spaces are important for privacy and dignity. Many men will not want to use a urinal if there is any chance that a woman may be present, either because they feel bashful or because they fear that exposing their genitals in front of women may be misinterpreted. Men may choose to receive intimate medical examinations only from a male healthcare professional. And though gay men are not subjected to sexual coercion, assault and fetishisation by straight women in the way that lesbians are by straight men, they may also choose to be in single-sex gay spaces for the purposes of friendship, support and finding partners.

49. In summary, to play a full part in public life, women need to be able to enter politics, academia, the workforce etc. on the same footing as men. But in some situations, women also need to be able to draw boundaries that exclude all men, including trans-identified ones. A policy of allowing men to enter designated female-only spaces, whether on the basis of legal gender certification or gender self-ID, is anything but inclusive. It excludes many women from those spaces by making them useless and sometimes dangerous.

E. Sex in the human-rights framework

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50. Human rights are indivisible and universal. As stated in the Universal Declaration of Human Rights[21], to which Australia was a founding signatory, everyone is entitled to human rights regardless of their sex:

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as ... sex...

Lack of clarity about sex (in law and organisational policy, language, data collection etc.) and the conflation of gender identity with sex can lead to interference with or violation of these rights.

This holds, in particular, with respect to a number of articles of the UDHR:

- the right not to be subject to degrading treatment (Article 5)
- equal protection against discrimination (Article 7)
- the right to respect for private and family life (Article 12)
- freedom of thought, conscience and religion (Article 18)
- freedom of expression (Article 19)
- freedom of assembly and association (Article 20).

Protection from discrimination on grounds of sex (Article 7)

51. As the UDHR was being written after the second world war, it rapidly became clear that simply stating that men and women have equal rights was not adequate to overcome embedded disadvantages or to recognise the different

[21] https://www.un.org/en/about-us/universal-declaration-of-human-rights

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needs, interests and vulnerabilities of women and men. Laws and policies that do not consider the particular interests of women tend to disadvantage them.

52. In 1946 the UN Commission on the Status of Women was established to monitor the situation of women and to promote women's rights. It brought to light areas in which women were denied equality with men.

53. In 1979 the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* was adopted by the UN General Assembly. Australia ratified CEDAW in 1983. By ratifying CEDAW, states agree to take measures to ensure women's full enjoyment of human rights on an equal basis with men, including:

- eradicating stereotyped roles for women and men
- ensuring women's equal participation in public life
- equality before the law
- eliminating discrimination in employment.

54. Neither the UDHR nor CEDAW defines the words "sex", "man" and "woman", but the references in CEDAW to reproduction, pregnancy, confinement, maternity and lactation as relating specifically to women make it clear that these words are used in their time-honoured biological sense. The preamble to CEDAW states that "the role of women in procreation should not be a basis for discrimination". Nevertheless, discrimination based on sex against women continues, violating the principles of equality of rights and respect for human dignity.

55. Distinguishing between men and women is recognised as essential in other places in international human-rights law, for example the Mandela Rules on the treatment of prisoners.[22]

Rule 11(a) says that

[22] https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

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> Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.

Rule 81 says that

> 1. In a prison for both men and women, the part of the prison set aside for women shall be under the authority of a responsible woman staff member who shall have the custody of the keys of all that part of the prison.
>
> 2. No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member.
>
> 3. Women prisoners shall be attended and supervised only by women staff members. This does not, however, preclude male staff members, particularly doctors and teachers, from carrying out their professional duties in prisons or parts of prisons set aside for women.

56. That the female sex is what is meant by the word "women" in the Mandela Rules is clear from Rule 28:

> In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment;

and Rule 48.2:

> Instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

57. These rules are clearly intended to protect female prisoners from violence, sexual violence and predation by males, whether carried out by other prisoners or prison staff. They encode within them an understanding of women's physical

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vulnerabilities as the weaker sex, and men's greater strength and propensity to rape and assault women.

58. In order to protect and safeguard women's fundamental rights not to be discriminated against on the basis of sex, and to respect positive measures such as single-sex spaces and services, including women's shelters, support groups and services for women and girls who are victims of violence, it is necessary to be able to identify men and women as distinct groups.

59. The category of sex can be confused by:

- **legal fiction** – where the state allows a person to be legally recognised as being the opposite sex for some purposes
- **self-identification** – where a person declares himself or herself to be the opposite sex (or both or neither), and expects institutions and other people to accept this.

60. If the concept of sex in domestic law becomes obscured or confused, measures intended for the protection of women and the prevention of discrimination against women will not work adequately. If people are not allowed to speak clearly about the two sexes (in both their personal and professional lives), this is corrosive of human rights and their protection insofar as the measures necessary to uphold those rights require recognising the two sexes as distinct groups.

61. Clarity about the two sexes is particularly important in situations where it matters to a woman that a person providing any service (including performing physically intimate procedures) or sharing any space where questions of privacy, dignity or safety arise, will be the same sex as her, that is, female.

62. Indeed, human-rights law may require the statutory recognition of biological sex. The enjoyment of separate-sex and single-sex spaces, when these are required for women's safety, dignity or privacy, and female-only sporting activities when those activities engage size, speed, strength and stamina, is likely to fall within the material scope of **Article 7**.

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The right not to be subject to degrading treatment (Article 5)

63. Degrading treatment includes rape, exhibitionism, voyeurism, exhibitionism, voyeurism and sexual assault. Deception as to sex vitiates consent.

64. If children in school are taught that they cannot use the words and concepts man and woman, male and female, same-sex and opposite-sex clearly (i.e. if they are told that girls can be boys, and boys can be girls), then they are vulnerable to sexual assault and sex by deception (rape). They are also vulnerable to being told to disregard personal boundaries and consent. See, for example, the recent case in Scotland of trans-identified man Andrew Miller ("Amy George"), who was sentenced in October 2023 to 20 years in jail for the abduction and repeated sexual assault of a young girl. Miller was dressed as a woman when he lured the child into his car, which, as the judge noted, misled the child into thinking that accepting a lift was safe. **Article 5** is likely to include being forced to undress in front of members of the opposite sex, being examined by them without consent or being forced to examine them (as may happen to a female police officer or prison guard, if searching policy is based on gender identity rather than sex). Treatment found to breach Article 3 of the European Convention on Human Rights (which corresponds to Article 5 of the UDHR) has included strip-searching in front of an officer of the opposite sex (Valašinas v Lithuania, 2001, § 117). If rules and statements of personal consent about searching and intimate medical examination cannot be expressed clearly, this leads to situations of institutionalised abuse, such as a woman being told she will be searched by another woman, but in fact being searched by a man who identifies as a woman (perhaps with government-issued paperwork stating that he is female).

65. Privacy and consent over who gets to see and touch your body are covered by **Article 12**. Infringements on personal bodily privacy (such as female employees being required to share toilets and changing-rooms with male employees who identify as women) that don't reach the level of nudity and humiliation necessary to engage **Article 5** will fall within the ambit of **Article 12**. Removing clarity about the words "male" and "female" prevents individuals from being able to maintain their own physical and moral integrity through being able to give or withdraw

consent, for example to undressing or sharing intimate spaces with a member of the opposite sex.

Freedom of thought, speech and expression (Articles 18 and 19)

66. Freedom of speech is widely recognised as an essential foundation of liberal democratic societies. **Article 18** says that everyone has the "right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

67. **Article 19** says that everyone has the "right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

68. The right to think, and to use ordinary words and concepts about the world, is a fundamental freedom. Thinking about the two sexes is automatic. An English speaker will think of someone they perceive to be female as "she" and someone they perceive to be male as "he". Many other common words and concepts relate to the sexes: son, daughter, mother, father, husband, wife, lesbian, gay, bisexual, homosexual, and heterosexual.

69. Freedom of speech is not only the freedom to make speeches but the freedom to say the things that you believe, and not to be compelled to say things you do not believe. It pertains not merely to the freedom to impart information, but to the freedom to receive it. When people cannot express themselves in ordinary, clear language, their listeners' rights are impinged upon too.

70. Protection for freedom of expression is not limited to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but extends to those that offend, shock or disturb.

71. People may exercise their freedom of expression by referring to themselves in the way they wish, and by requesting that others refer to them in the same way, such as through the use of "preferred pronouns". But this does not oblige others

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to comply. Blanket prohibitions against "misgendering" (that is, referring to people with words that relate to their sex when they would prefer not to be referred to in this way) destroy freedom of expression and freedom of belief.

72. There are many situations in which a person might especially want to refer to someone else by their sex, even if that person would prefer they did not. For example:

- When they are related to that person (for example a husband or wife, parent or child);
- When giving evidence, having taken an oath to tell the "truth, the whole truth and nothing but the truth";
- To express their religious or non-religious belief that biological sex is immutable, or because they are describing what they see;
- When making an argument about a situation where sex matters, such as policies that allow males to play in women's sports or be assigned to women's prisons;
- When setting, communicating and enforcing entry rules for single-sex services, spaces and associations;
- In a situation involving undressing, sleeping or being otherwise vulnerable (for example, when on a hospital ward);
- When giving consent for sexual contact or for a medical examination or procedure.

73. Freedom of speech and freedom of expression are essential when writing, setting and enforcing rules, regulations and laws, since these require clear language describing shared concepts. A category that cannot be described in easily comprehensible, everyday language cannot become the basis for a law or societal rule. If it is impossible to refer to men as men/male/he/him, then it is impossible to write, communicate and enforce rules that rely on distinguishing between the sexes.

74. It is logically impossible to have a female-only space or service if male people are permitted to enter. It is likewise logically impossible if it is taboo to describe and refer to male people as male, since it will be impossible to explain why certain individuals are not entitled to enter – namely, that they are male.

75. Philosopher Kathleen Stock writes that if we lose a working concept of "female":

> "self-declared trans women (males) may well eventually gain unrestricted access to protected spaces originally introduced to shield females from sexual violence from males. We are already seeing the erosion of these, as companies and charities open formerly female-only spaces such as changing rooms, shared accommodation, swimming ponds, hospital wards, and prisons, to everyone out of a desire not to appear transphobic."[23]

Freedom of assembly and association (Article 20)

76. **Article 20** says that everyone has the right to "freedom of peaceful assembly and association". This includes the right to meet and establish groups and associations based on sex (men or women), sexual orientation (gays, lesbians, bisexuals, heterosexuals or any combination), religion or belief, transgender identity or any other self-determined characteristic.

77. If there is no agreed-upon term for a category of people, or if terms for that category have been obfuscated or made unsayable by social or legal penalties, then that category cannot draw boundaries around itself. If people who share a characteristic are not able to clearly distinguish using ordinary, comprehensible language between themselves and people who do not have that characteristic, then that group cannot say who is in it and who is not, and will therefore be deprived of freedom of association.

78. In summary, being free to use ordinary words to describe the two sexes, without obfuscation, misunderstanding or fear of social or legal penalties, is essential to several fundamental human rights.

F. The real-world impact of conflating sex and gender identity

79. The harms caused by gender-identity ideology are not theoretical. Among them are:

[23] Stock, Kathleen (2018) Changing the Concept of Woman will Have Unintended Harms https://www.economist.com/open-future/2018/07/06/changing-the-concept-of-woman-will-cause-unintended-harms

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- Women holding public meetings to discuss these issues being intimidated and attacked and not defended by the police[24]
- Female prisoners and detainees being searched by male prison officers who identify as women[25]
- Female patients who request a female healthcare professional being examined by male staff members who identify as women[26]
- Women's and girls' sports including males who identify as women, putting fairness and safety for women at risk and leading to self-exclusion of women from sport[27]
- Single-sex associations coming under pressure to include members of the opposite sex[28]
- Single-sex services (such as women's refuges and rape crisis) under pressure to include males who identify as women[29]
- Traumatised women who use single-sex services being told that they are female-only and then facing male staff and male participants[30]
- Women using residential accommodation such as hostels and student halls that are described as female-only finding themselves sharing with men who identify as women[31]
- Victims and witnesses told they must call male assailants "she" and describe them as women[32]
- Gay men and lesbians harassed and discriminated against for saying they are same-sex, not "same gender", attracted[33]

---

[24] https://www.dailymail.co.uk/news/article-11903167/Kellie-Jay-Keen-Minshull-AKA-Posie-Parker-flees-New-Zealand-Auckland-tomato-soup-egging-hit.html
[25] https://sex-matters.org/posts/prisons/searching-for-a-simple-answer/
[26] https://a-question-of-consent.net/2020/09/16/doctors/
[27] *Unfair Play: The Battle For Women's Sport*, Davies, S., Swift Press
[28] https://www.dailymail.co.uk/news/article-12401009/Lesbian-speed-dating-event-sparks-transphobia-row-organisers-insist-adult-human-females-attend-popular-weekly-event.html
[29] #NoDebate: Sex, Gender and the Women's Sector, Gosling, M. (forthcoming)
[30] https://unherd.com/2022/07/why-im-suing-survivors-network/
[31] https://www.telegraph.co.uk/news/2023/06/10/man-dressed-woman-female-only-room-astor-victoria-hostel/
[32] https://www.feministcurrent.com/2018/04/27/trans-identified-male-tara-wolf-charged-assault-hyde-park-attack/

- Gay men and lesbians coerced, tricked or pressured into having sexual relations with trans-identifying people of the opposite sex.[34][35]

80. State-supported gender self-identification means that women must submit to non-consensually sharing intimate spaces (where they are undressing, washing, sleeping etc.) and accept being intimately examined by men who identify as women and forced to pretend that those men are women. This takes place in prisons, women's refuges, health-care services, schools and workplaces. If the country in which these infringements take place has implemented international treaties pledging to prevent such abuses, they will, by definition, by contrary to domestic law.

81. Concerning qualified freedoms (belief, speech, expression), restrictions will be unlawful if they involve the use of state power to disproportionately infringe the freedom of people to say that there are two sexes, and that sex cannot change, including applying this principle to speech about individuals, and in particular where this speech is necessary to protect against Article 5 infringements.

82. Sex Matters has published several analyses of these infringements in the UK context. The human-rights framework closely aligns with the UHDR (though note the numbering of rights in the European Convention on Human Rights, which is incorporated into domestic law, differs from that in the UDHR).

83. Three publications are particularly relevant to this evidence.

a) A detailed analysis of more than 6,000 responses to a call for evidence on why people value single-sex spaces and services.[36] This was not a representative sample, but rather a chance for people who valued single-sex spaces to say why.

[33] https://www.doyleclayton.co.uk/resources/news/allison-bailey-wins-costs-award/
[34] The Hook-Up: A Trans Woman's Guide to the Sex Club Scene, CliniQ, https://s3-eu-west-1.amazonaws.com/assets.mesmac.co.uk/assets/CliniQ-TransWomen-landscape-ONLINE.pdf?mtime=20190301132253
[35] Cruising: A Trans Guy's Guide to the Gay Scene, CliniQ, https://jirosworld.com/transgender/TransGuys-cliniq-safers.pdf
[36] Why single-sex services matter: privacy, dignity, safety and choice, https://sex-matters.org/posts/publications/why-single-sex-services-matter-privacy-dignity-safety-and-choice-3/

Key findings included:

- The most important reason given for wanting single-sex services is privacy and dignity (98% of respondents).
- Nine out of ten respondents were women, but people of both sexes said they prefer single-sex privacy in everyday situations such as changing, washing and using the toilet, and in hospital wards.
- Almost half the women who responded had experienced sexual assault in their lifetime, and this made privacy and security in everyday single-sex services particularly important for them.
- Losing single-sex services harms inclusion. Many women said they self-exclude from services which are no longer provided as single-sex or separate-sex.

b) A separate analysis of responses by lesbians.[37] The key finding was that lesbian-only spaces, both online and "IRL" (in real life) are either disappearing entirely or becoming "trans inclusive" – that is, including heterosexual men who identify as women and therefore as lesbians. This so-called "inclusive" policy was bitterly resented by respondents, and constitutes denial of lesbians' freedom of association.

c) An in-depth series of interviews with leaders in the male violence against women and girls' sector (in preparation for publication at the time of preparation of this statement).[38] Among the topics covered in this research was the impact of mixed-sex provision on service-users. These included:

- **Worsening mental health.** One leader commented: "Survivors are coping with the trauma of what has happened to them... We asked them about their fears, and they expressed fears that men would be there."
- **Risks to safety**. One leader said that having mixed-sex provision "would open the gates for safeguarding concerns. It would become normalised to see men in women's spaces. I would have real

[37] https://sex-matters.org/posts/single-sex-services/lesbians-without-liberty-2/
[38] #NoDebate: Sex, Gender and the Women's Sector, Gosling, M. (forthcoming)

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concerns about the opportunities for women to be further assaulted and abused. It would become legitimised as men are accepted into those spaces."

- **Self-exclusion.** Women leave refuges, according to one interviewee, if they encounter intact males, as it is not safe for them to stay there. When support groups are mixed sex, "What do women do? They don't go. And everyone left behind is congratulating themselves on how smooth the transition has been." It is not just mixed-sex services that can lead women to self-exclude; they may also avoid using services that are not clear about attendance criteria. While some organisations provide single-sex services under the radar, according to one interviewee, "that's not good enough for the women who would otherwise self-exclude from services – and there's plenty of evidence that they do".
- **Poorer-quality support**. Three leaders commented on the negative effects on women of sharing their support services, saying that socialisation and gender norms can lead to transwomen taking up the available space. According to one, transwomen "tend to continue to exhibit typically male behaviours. They may well take over a meeting, take more than their airtime, exhibit physically threatening behaviour, and they threaten legal action." Another said that women are much less likely to share their experiences if there is someone biologically male in the group. "The transwoman dominates the conversation, and the women don't speak. Transwomen's expectations are that they will be listened to through gender norms."
- **The overriding of women's preferences.** For some leaders, the fact that many female survivors and prisoners do not want mixed-sex services should be sufficient as an argument without needing to reference the trauma, self-exclusion, negative effects on self-esteem and other impacts they experience. "I hate that we are having to do this on the basis of dignity and safety," said one. "I did masses of focus groups for [a large public-sector organisation] and asked about women's experiences of women-only services. Women who hadn't

experienced it had the reaction of, 'Yeah, whatever.' Those who had eulogised about it, and I wish that we were allowed to fight for that."

- **Forced compliance.** According to one leader: "The expectation has always been that women will put other people's needs first ahead of themselves. The sense of entitlement from trans-rights activists is something that women have been subjected to their entire lives." Another said, "Women who have been through this trauma want to make you happy. They don't want to bring any more difficulty into their lives. They want to be compliant. In an individual one-to-one environment, they are very clear [that they don't want to share their spaces], but in a group situation, they would be afraid to say that."

DocuSigned by:
Helen Joyce
10C16EADBA30477

Helen Joyce

23 October

[redacted]

Helen Joyce
United Kingdom
Curriculum Vitae

Career History

2021-date
Director of Advocacy, Sex Matters. I am part of a small team at this new human-rights organisation, which seeks to establish clarity about the meaning of sex in rules and policies, in law and everyday life. In this role I share responsibility with the executive director for policy development and political and media outreach.

Freelance journalist. Newsletter at thehelenjoyce.com; regular column in *The Critic*.

2005-2021
Full-time staff journalist at *The Economist*. During this time I held several increasingly senior roles, starting as education correspondent (2005-09), then Brazil correspondent based in São Paulo (2010-13), International editor (2014-18), Finance editor (2019), executive editor for events (2020) and Britain editor (2021).
Publication: *Trans: When Ideology Meets Reality* (OneWorld 2021).

2002-05
Founding editor for *Significance*, the magazine of the Royal Statistical Society (part-time).

1999-2005
Editor for *Plus*, the online magazine of the Millennium Mathematics Project based at the University of Cambridge (part-time).

Education

1996-98
Post-doctoral Marie Curie Fellow of the European Union, Mathematics Department, University of Jyväskylä, Central Finland.

1995-96
Post-doctoral fellow, Mathematics Department, University of Cardiff.

1992-95
PhD student with British Council Scholarship, Mathematics Department, University College London, with supervisor Professor David Preiss.
Thesis title: *Packing Measures, Packing Dimensions and the Existence of Sets of Positive Finite Measure* (1995)

1991-92
Part III Mathematics, St. John's College Cambridge, British Council Scholarship.

1987-91
B.A. Hons Degree in Mathematics and Statistics, Trinity College Dublin

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	24/10/2023 7:51:38 PM AEDT
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File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another

Respondents

Affidavit of: **Dr Kathleen Stock**

Address: [redacted]

Occupation: Academic

Date: 23 October 2023 Affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Dr Kathleen Stock in support of Respondents' defence proceedings affirmed on 24 October 2023	1	2
2	Annexure "**A**' is a copy of the Letter of Instruction from Alexander Rashidi Lawyers of 20 October 2023	1	4
2	Annexure "**B**' is a copy of the report prepared by me and dated 23 October 2023	7	25

I, Kathleen Stock, affirm;

Filed on behalf of (name & role of party) Kathleen Stock, witness
Prepared by (name of person/lawyer) Katherine Deves, Lawyer
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 02 2139 0100 Fax
Email Katherine.d@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

[Version 3 form approved 02/05/2019]

DocuSigned by: K Stock 51A2E14373374EB
Deponent

K Deves
Witness

1. I have been retained by the legal representatives for Respondents as an expert in connection with the litigation Roxanne Tickle v Giggle for Girls Pty Ltd & Anor, NSD1148 of 2022. On 20 October 2023, I was instructed by solicitors representing the Respondents to prepare an independent expert witness statement in the above proceeding. Annexed to this my affidavit and marked "**A**' is the Letter of Instruction from Alexander Rashidi Lawyers to which I refer.

2. The opinions expressed herein are my own and do not express the views or opinions of my employer.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion.

4. I confirm that in preparing my report I had read the obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth) in the expert evidence practice note in GPN/EXPT (Expert Code) and that I agreed to be bound by the requirements of the rules.

5. I further declare that I have made all inquiries that I believe are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which I regard as relevant have, to my knowledge, have been withheld from the Court. The opinions I have expressed in my report are independent and impartial and are based wholly or substantially on my specialised knowledge arising from my training, study, and/or experience. I understand my duty to the Court, and I have compiled with this duty and will continue to do so.

6. I have been asked to review the case filings submitted in this case and provide expert opinion addressing the following question:

> From an ontological perspective, based on your specialised knowledge, in your opinion" is a woman a socially constitutive fact or convention into which any human can self-identify at their discretion?

7. Annexed to this my affidavit and marked "**B**' is a copy of the report prepared by me and dated 23 October 2023. That report is 41 pages and includes (amongst other things) my opinion as set out therein, and my curriculum vitae.

Affirmed by the deponent)
[redacted])
on 23 October 2023)
Before me:)

DocuSigned by:
K Stock
B1A2E14373374EB

Signature of deponent

K Deves

Signature of witness

Katherine Deves
Lawyer

***This affidavit was affirmed by the deponent by audio visual link.
***I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "A"

This is the Annexure marked "**A**" now produced and shown to Kathleen Stock at the time of affirming her affidavit on 23 October 2023 before me:

K Deves

Solicitor for the Respondents

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Alexander Rashidi Lawyers

Principal Alex Rashidi
Writer Katherine Deves
Direct Line 07 2139 0107
Email Katherine.d@rashidi.com.au
Our ref 23GIG001

20 October 2023

Dr Kathleen Stock
[redacted]

Attention Dr Kathleen Stock
By email only [redacted]

Dear Dr Stock,

RE: TICKLE -V- GIGGLE NSD1148/2022 | LETTER OF INSTRUCTION EXPERT WITNESS

1. We act for the Respondents, Giggle for Girls Pty Ltd and Sally Grover, in relation to proceedings commenced by the Applicant, Roxanne Tickle in the Federal Court of Australia. Thank you for agreeing to provide an expert report in these proceedings.

2. We confirm we have received your fee schedule as an expert witness. Could you please provide an estimate for your services in this matter?

3. Witnesses in the Federal Court of Australia can appear via Audio-Visual Link.

4. The hearing is scheduled to commence on Tuesday 9 April 2024 and is anticipated to run for 3-4 days. Please ensure that you are available to give evidence during this period if required.

A. Background

5. The proceedings concern and online digital application, Giggle for Girls (**the App**) designed for specifically women only interactions, that could be downloaded and used only on mobile phones. The App is no longer operational and has not been since around August-September 2022.

6. The App was described on Google Play Store and the App Store as "made for Women by Women. Connect on Giggle about the latest issues, politics, gossip, news and more. Promote your business and yourself, find accommodation and roommates, connect privately to discuss your most intimate thoughts all within mutual consent and without unwanted interruptions and misogynistic abuse."

B. The Applicant

7. The Applicant is a natal male. In or about October 2019, he altered his record of sex on his Queensland issued birth certificate from male to female. At the time, a person was only able to do this if they had statutory declarations, from 2 doctors, verifying they had undergone "sexual reassignment surgery". This term is not defined in the legislation.

8. To be permitted on the App, the Applicant was required to take a photograph in real time using the features of the App (a selfie) and then upload it onto the digital platform. The photograph was then assessed by artificial intelligence (**AI**) cloud based application programming interface (API) facial characterisation software called "Kairos", set to determine the person's gender. Kairos was set to 94% accuracy with the view it could be manually overridden by the person who had control over the platform. The AI software granted the Applicant access to the App. The Second Respondent, Ms Grover, who was one of the relevant persons who had control over the AI software, characterised the Applicant's face as that of a male and manually removed the Applicant from the App.

The Applicant's claim

9. The Applicant claims that he has been discriminated against by the Respondents in the area of providing services and making facilities on the ground of his gender identity. available within the meaning of section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**) which provides:

> **22 Goods, services and facilities**

> It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:
>
> (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;
>
> (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or
>
> (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

10. The Applicant further claims that in breach of section 22 of the SDA, the First and/or the Second Respondent discriminated against the Applicant on the basis of gender identity within the meaning of section 5B (1) of the SDA by:

    a) imposing a condition that would allow access on the App only to cisgender females or determining as having a cisgendered physical characteristic by the Second Respondent on review of a selfie provided when an application was made;
    b) excluding the Applicant from using and accessing the App which was otherwise available to cisgender women; and
    c) not responding to the Applicant's request for access to the platform. In relation to not being provided access to premises (the App), the Applicant claimed that was treated less favourably than a cisgender woman. The Applicant further claims that was less favourably treated because the Applicant is a transgender woman. Gender identity is defined in section 4 of the SDA:

The Respondent understands "cisgender" in this context to mean females (including legal females, that is, with state issued sex identification as a female) whose appearances conform with a traditionally feminine appearance. The corollary being that transgender females are females (as above) whose appearances do not conform with a traditionally feminine appearance.

In the SDA ***gender identity*** means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person's designated sex at birth.

11. The Applicant alleges that in breach of s 22 of the SDA, the Respondents discriminated against the Applicant on the basis of gender identity within the meaning of section 5B (2) of the SDA by imposing a condition which has disadvantaged and was likely to continue to disadvantage transgender women because:

    a) they will not be able to gain access to the App as cisgender women would; and
    b) they are vulnerable to disparaging conclusions and exclusion based on their appearance.

12. Section 5B of the SDA provides that:

5B Discrimination on the ground of gender identity

(1) For the purposes of this Act, a person (the ***discriminator***) discriminates against another person (the ***aggrieved person***) on the ground of the aggrieved person's gender identity if, by reason of:
  (a) the aggrieved person's gender identity; or
  (b) a characteristic that appertains generally to persons who have the same gender identity as the aggrieved person; or
  (c) a characteristic that is generally imputed to persons who have the same gender identity as the aggrieved person;

the discriminator treats the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person who has a different gender identity.

(2) For the purposes of this Act, a person (the ***discriminator***) discriminates against another person (the ***aggrieved person***) on the ground of the aggrieved person's gender identity if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons who have the same gender identity as the aggrieved person.

(3) This section has effect subject to sections 7B and 7D.

Instructions

13. You are required to provide a report setting out your opinion based on the questions outlined in **Annexure A** (below). In providing your opinion you are required to state your opinion, explain the bases your opinion, and explain how your opinion is based on your specialised knowledge (that is, your training, study or experience).

Your Engagement as an Expert

14. In accordance with your obligations under Rule 23.12 of the *Federal Court Rules 2011* (Cth), we **enclose** a copy of expert evidence practice note in GPN/EXPT (Expert Code). Please read the Expert Code and acknowledge that you agree to be bound by it in your report.

15. Please ensure that your report:

    a) Includes a statement of your qualification and experience;

    b) Is signed by you;

    c) Where the report is lengthy or complex, and ensure a brief summary of the report appears at the beginning of the report;

    d) Contains an acknowledgement at the beginning of the report that you have read, understood and comply with the Expert Code.

    e) Contains particulars of the training, study or experience by which you have acquired your specialised knowledge.

    f) Identifies the questions that you are asked to address and to attach to the report, any documents that records any instructions given to you and other documents and materials that you have been instructed to consider.

    g) Sets out separately each of the material, facts, or assumptions on which your opinions are based.

    h) Sets out separately from the material facts or assumptions each of your opinions.

    i) Sets out the reasons for and any literature or other materials in support of each of your opinions.

    j) Contains an acknowledgement that your opinions are based wholly or substantially on the specialised knowledge mentioned subparagraph (e) above; and

    k) Comply with the Expert Code.

Next Steps

16. Please advise if you require any additional information for you to prepare your report.

17. We would be grateful if you could please provide us with your report but by no later than **Monday, 23 October 2023.**

18. After preparing your report, we will ask you to affirm or swear an affidavit which attaches your report.

Should you have any questions please contact our office.

Yours faithfully
Alexander Rashidi Lawyers

Katherine Deves

Katherine Deves
Lawyer

Enclosed: Expert Evidence Practice Note (GPN-EXPT)

Annexure A

From an ontological perspective, based on your specialised knowledge, in your opinion" is a woman a socially constitutive fact or convention into which any human can self-identify at their discretion?

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FEDERAL COURT OF AUSTRALIA

EXPERT EVIDENCE PRACTICE NOTE (GPN-EXPT)

General Practice Note

1. INTRODUCTION

1.1 This practice note, including the *Harmonised Expert Witness Code of Conduct* ("**Code**") (see **Annexure A**) and the *Concurrent Expert Evidence Guidelines* ("**Concurrent Evidence Guidelines**") (see **Annexure B**), applies to any proceeding involving the use of expert evidence and must be read together with:

(a) the Central Practice Note (CPN-1), which sets out the fundamental principles concerning the National Court Framework ("**NCF**") of the Federal Court and key principles of case management procedure;

(b) the Federal Court of Australia Act 1976 (Cth) ("**Federal Court Act**");

(c) the *Evidence Act 1995* (Cth) ("**Evidence Act**"), including Part 3.3 of the Evidence Act;

(d) Part 23 of the *Federal Court Rules 2011* (Cth) ("**Federal Court Rules**"); and

(e) where applicable, the Survey Evidence Practice Note (GPN-SURV).

1.2 This practice note takes effect from the date it is issued and, to the extent practicable, applies to proceedings whether filed before, or after, the date of issuing.

2. APPROACH TO EXPERT EVIDENCE

2.1 An expert witness may be retained to give opinion evidence in the proceeding, or, in certain circumstances, to express an opinion that may be relied upon in alternative dispute resolution procedures such as mediation or a conference of experts. In some circumstances an expert may be appointed as an independent adviser to the Court.

2.2 The purpose of the use of expert evidence in proceedings, often in relation to complex subject matter, is for the Court to receive the benefit of the objective and impartial assessment of an issue from a witness with specialised knowledge (based on training, study or experience - see generally s 79 of the Evidence Act).

2.3 However, the use or admissibility of expert evidence remains subject to the overriding requirements that:

(a) to be admissible in a proceeding, any such evidence must be relevant (s 56 of the Evidence Act); and

(b) even if relevant, any such evidence, may be refused to be admitted by the Court if its probative value is outweighed by other considerations such as the evidence

being unfairly prejudicial, misleading or will result in an undue waste of time (s 135 of the Evidence Act).

2.4 An expert witness' opinion evidence may have little or no value unless the assumptions adopted by the expert (ie. the facts or grounds relied upon) and his or her reasoning are expressly stated in any written report or oral evidence given.

2.5 The Court will ensure that, in the interests of justice, parties are given a reasonable opportunity to adduce and test relevant expert opinion evidence. However, the Court expects parties and any legal representatives acting on their behalf, when dealing with expert witnesses and expert evidence, to at all times comply with their duties associated with the overarching purpose in the Federal Court Act (see ss 37M and 37N).

3. INTERACTION WITH EXPERT WITNESSES

3.1 Parties and their legal representatives should never view an expert witness retained (or partly retained) by them as that party's advocate or "hired gun". Equally, they should never attempt to pressure or influence an expert into conforming his or her views with the party's interests.

3.2 A party or legal representative should be cautious not to have inappropriate communications when retaining or instructing an independent expert, or assisting an independent expert in the preparation of his or her evidence. However, it is important to note that there is no principle of law or practice and there is nothing in this practice note that obliges a party to embark on the costly task of engaging a "consulting expert" in order to avoid "contamination" of the expert who will give evidence. Indeed the Court would generally discourage such costly duplication.

3.3 Any witness retained by a party for the purpose of preparing a report or giving evidence in a proceeding as to an opinion held by the witness that is wholly or substantially based in the specialised knowledge of the witness[1] should, at the earliest opportunity, be provided with:

(a) a copy of this practice note, including the Code (see Annexure A); and

(b) all relevant information (whether helpful or harmful to that party's case) so as to enable the expert to prepare a report of a truly independent nature.

3.4 Any questions or assumptions provided to an expert should be provided in an unbiased manner and in such a way that the expert is not confined to addressing selective, irrelevant or immaterial issues.

[1] Such a witness includes a "Court expert" as defined in r 23.01 of the Federal Court Rules. For the definition of "expert", "expert evidence" and "expert report" see the Dictionary, in Schedule 1 of the Federal Court Rules.

4. ROLE AND DUTIES OF THE EXPERT WITNESS

4.1 The role of the expert witness is to provide relevant and impartial evidence in his or her area of expertise. An expert should never mislead the Court or become an advocate for the cause of the party that has retained the expert.

4.2 It should be emphasised that there is nothing inherently wrong with experts disagreeing or failing to reach the same conclusion. The Court will, with the assistance of the evidence of the experts, reach its own conclusion.

4.3 However, experts should willingly be prepared to change their opinion or make concessions when it is necessary or appropriate to do so, even if doing so would be contrary to any previously held or expressed view of that expert.

Harmonised Expert Witness Code of Conduct

4.4 Every expert witness giving evidence in this Court must read the *Harmonised Expert Witness Code of Conduct* (attached in Annexure A) and agree to be bound by it.

4.5 The Code is not intended to address all aspects of an expert witness' duties, but is intended to facilitate the admission of opinion evidence, and to assist experts to understand in general terms what the Court expects of them. Additionally, it is expected that compliance with the Code will assist individual expert witnesses to avoid criticism (rightly or wrongly) that they lack objectivity or are partisan.

5. CONTENTS OF AN EXPERT'S REPORT AND RELATED MATERIAL

5.1 The contents of an expert's report must conform with the requirements set out in the Code (including clauses 3 to 5 of the Code).

5.2 In addition, the contents of such a report must also comply with r 23.13 of the Federal Court Rules. Given that the requirements of that rule significantly overlap with the requirements in the Code, an expert, unless otherwise directed by the Court, will be taken to have complied with the requirements of r 23.13 if that expert has complied with the requirements in the Code and has complied with the additional following requirements. The expert shall:

(a) acknowledge in the report that:

(i) the expert has read and complied with this practice note and agrees to be bound by it; and

(ii) the expert's opinions are based wholly or substantially on specialised knowledge arising from the expert's training, study or experience;

(b) identify in the report the questions that the expert was asked to address;

(c) sign the report and attach or exhibit to it copies of:

(i) documents that record any instructions given to the expert; and

(ii) documents and other materials that the expert has been instructed to consider.

5.3 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the other parties at the same time as the expert's report.

6. CASE MANAGEMENT CONSIDERATIONS

6.1 Parties intending to rely on expert evidence at trial are expected to consider between them and inform the Court at the earliest opportunity of their views on the following:

(a) whether a party should adduce evidence from more than one expert in any single discipline;

(b) whether a common expert is appropriate for all or any part of the evidence;

(c) the nature and extent of expert reports, including any in reply;

(d) the identity of each expert witness that a party intends to call, their area(s) of expertise and availability during the proposed hearing;

(e) the issues that it is proposed each expert will address;

(f) the arrangements for a conference of experts to prepare a joint-report (see Part 7 of this practice note);

(g) whether the evidence is to be given concurrently and, if so, how (see Part 8 of this practice note); and

(h) whether any of the evidence in chief can be given orally.

6.2 It will often be desirable, before any expert is retained, for the parties to attempt to agree on the question or questions proposed to be the subject of expert evidence as well as the relevant facts and assumptions. The Court may make orders to that effect where it considers it appropriate to do so.

7. CONFERENCE OF EXPERTS AND JOINT-REPORT

7.1 Parties, their legal representatives and experts should be familiar with aspects of the Code relating to conferences of experts and joint-reports (see clauses 6 and 7 of the Code attached in Annexure A).

7.2 In order to facilitate the proper understanding of issues arising in expert evidence and to manage expert evidence in accordance with the overarching purpose, the Court may require experts who are to give evidence or who have produced reports to meet for the purpose of identifying and addressing the issues not agreed between them with a view to reaching agreement where this is possible ("**conference of experts**"). In an appropriate case, the Court may appoint a registrar of the Court or some other suitably qualified person ("**Conference Facilitator**") to act as a facilitator at the conference of experts.

7.3 It is expected that where expert evidence may be relied on in any proceeding, at the earliest opportunity, parties will discuss and then inform the Court whether a conference of experts and/or a joint-report by the experts may be desirable to assist with or simplify the giving of expert evidence in the proceeding. The parties should discuss the necessary arrangements for any conference and/or joint-report. The arrangements discussed between the parties should address:

(a) who should prepare any joint-report;

(b) whether a list of issues is needed to assist the experts in the conference and, if so, whether the Court, the parties o r the experts should assist in preparing such a list;

(c) the agenda for the conference of experts; and

(d) arrangements for the provision, to the parties and the Court, of any joint-report or any other report as to the outcomes of the conference (**"conference report"**).

Conference of Experts

7.4 The purpose of the conference of experts is for the experts to have a comprehensive discussion of issues relating to their field of expertise, with a view to identifying matters and issues in a proceeding about which the experts agree, partly agree or disagree and why. For this reason the conference is attended only by the experts and any Conference Facilitator. Unless the Court orders otherwise, the parties' lawyers will not attend the conference but will be provided with a copy of any conference report.

7.5 The Court may order that a conference of experts occur in a variety of circumstances, depending on the views of the judge and the parties and the needs of the case, including:

(a) while a case is in mediation. When this occurs the Court may also order that the outcome of the conference or any document disclosing or summarising the experts' opinions be confidential to the parties while the mediation is occurring;

(b) before the experts have reached a final opinion on a relevant question or the facts involved in a case. When this occurs the Court may order that the parties exchange draft expert reports and that a conference report be prepared for the use of the experts in finalising their reports;

(c) after the experts' reports have been provided to the Court but before the hearing of the experts' evidence. When this occurs the Court may also order that a conference report be prepared (jointly or otherwise) to ensure the efficient hearing of the experts' evidence.

7.6 Subject to any other order or direction of the Court, the parties and their lawyers must not involve themselves in the conference of experts process. In particular, they must not seek to encourage an expert not to agree with another expert or otherwise seek to influence the outcome of the conference of experts. The experts should raise any queries they may have in relation to the process with the Conference Facilitator (if one has been appointed) or in

accordance with a protocol agreed between the lawyers prior to the conference of experts taking place (if no Conference Facilitator has been appointed).

7.7 Any list of issues prepared for the consideration of the experts as part of the conference of experts process should be prepared using non-tendentious language.

7.8 The timing and location of the conference of experts will be decided by the judge or a registrar who will take into account the *location* and availability of the experts and the Court's case management timetable. The conference may take place at the Court and will usually be conducted in-person. However, if not considered a hindrance to the process, the conference may also be conducted with the assistance of visual or audio technology (such as via the internet, video link and/or by telephone).

7.9 Experts should prepare for a conference of experts by ensuring that they are familiar with all of the material upon which they base their opinions. Where expert reports in draft or final form have been exchanged prior to the conference, experts should attend the conference familiar with the reports of the other experts. Prior to the conference, experts should also consider where they believe the differences of opinion lie between them and what processes and discussions may assist to identify and refine those areas of difference.

Joint-report

7.10 At the conclusion of the conference of experts, unless the Court considers it unnecessary to do so, it is expected that the experts will have narrowed the issues in respect of which they agree, partly agree or disagree in a joint-report. The joint-report should be clear, plain and concise and should summarise the views of the experts on the identified issues, including a succinct explanation for any differences of opinion, and otherwise be structured in the manner requested by the judge or registrar.

7.11 In some cases (and most particularly in some native title cases), depending on the nature, volume and complexity of the expert evidence a judge may direct a registrar to draft part, or all, of a conference report. If so, the registrar will usually provide the draft conference report to the relevant experts and seek their confirmation that the conference report accurately reflects the opinions of the experts expressed at the conference. Once that confirmation has been received the registrar will finalise the conference report and provide it to the intended recipient(s).

8. CONCURRENT EXPERT EVIDENCE

8.1 The Court may determine that it is appropriate, depending on the nature of the expert evidence and the proceeding generally, for experts to give some or all of their evidence concurrently at the final (or other) hearing.

8.2 Parties should familiarise themselves with the *Concurrent Expert Evidence Guidelines* (attached in Annexure B). The Concurrent Evidence Guidelines are not intended to be exhaustive but indicate the circumstances when the Court might consider it appropriate for

concurrent expert evidence to take place, outline how that process may be undertaken, and assist experts to understand in general terms what the Court expects of them.

8.3 If an order is made for concurrent expert evidence to be given at a hearing, any expert to give such evidence should be provided with the Concurrent Evidence Guidelines well in advance of the hearing and should be familiar with those guidelines before giving evidence.

9. FURTHER PRACTICE INFORMATION AND RESOURCES

9.1 Further information regarding Expert Evidence and Expert Witnesses is available on the Court's website.

9.2 Further information to assist litigants, including a range of helpful guides, is also available on the Court's website. This information may be particularly helpful for litigants who are representing themselves.

J L B ALLSOP
Chief Justice
25 October 2016

Annexure A

HARMONISED EXPERT WITNESS CODE OF CONDUCT[2]

APPLICATION OF CODE

1. This Code of Conduct applies to any expert witness engaged or appointed:

   (a) to provide an expert's report for use as evidence in proceedings or proposed proceedings; or

   (b) to give opinion evidence in proceedings or proposed proceedings.

GENERAL DUTIES TO THE COURT

2. An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the Court impartially on matters relevant to the area of expertise of the witness.

CONTENT OF REPORT

3. Every report prepared by an expert witness for use in Court shall clearly state the opinion or opinions of the expert and shall state, specify or provide:

   (a) the name and address of the expert;

   (b) an acknowledgment that the expert has read this code and agrees to be bound by it;

   (c) the qualifications of the expert to prepare the report;

   (d) the assumptions and material facts on which each opinion expressed in the report is based [a letter of instructions may be annexed];

   (e) the reasons for and any literature or other materials utilised in support of such opinion;

   (f) (if applicable) that a particular question, issue or matter falls outside the expert's field of expertise;

   (g) any examinations, tests or other investigations on which the expert has relied, identifying the person who carried them out and that person's qualifications;

   (h) the extent to which any opinion which the expert has expressed involves the acceptance of another person's opinion, the identification of that other person and the opinion expressed by that other person;

   (i) a declaration that the expert has made all the inquiries which the expert believes are desirable and appropriate (save for any matters identified explicitly in the report), and that no matters of significance which the expert regards as relevant have, to the

[2] Approved by the Council of Chief Justices' Rules Harmonisation Committee

knowledge of the expert, been withheld from the Court;

(j) any qualifications on an opinion expressed in the report without which the report is or may be incomplete or inaccurate;

(k) whether any opinion expressed in the report is not a concluded opinion because of insufficient research or insufficient data or for any other reason; and

(l) where the report is lengthy or complex, a brief summary of the report at the beginning of the report.

SUPPLEMENTARY REPORT FOLLOWING CHANGE OF OPINION

4. Where an expert witness has provided to a party (or that party's legal representative) a report for use in Court, and the expert thereafter changes his or her opinion on a material matter, the expert shall forthwith provide to the party (or that party's legal representative) a supplementary report which shall state, specify or provide the information referred to in paragraphs (a), (d), (e), (g), (h), (i), (j), (k) and (l) of clause 3 of this code and, if applicable, paragraph (f) of that clause.

5. In any subsequent report (whether prepared in accordance with clause 4 or not) the expert may refer to material contained in the earlier report without repeating it.

DUTY TO COMPLY WITH THE COURT'S DIRECTIONS

6. If directed to do so by the Court, an expert witness shall:

(a) confer with any other expert witness;

(b) provide the Court with a joint-report specifying (as the case requires) matters agreed and matters not agreed and the reasons for the experts not agreeing; and

(c) abide in a timely way by any direction of the Court.

CONFERENCE OF EXPERTS

7. Each expert witness shall:

(a) exercise his or her independent judgment in relation to every conference in which the expert participates pursuant to a direction of the Court and in relation to each report thereafter provided, and shall not act on any instruction or request to withhold or avoid agreement; and

(b) endeavour to reach agreement with the other expert witness (or witnesses) on any issue in dispute between them, or failing agreement, endeavour to identify and clarify the basis of disagreement on the issues which are in dispute.

ANNEXURE B

CONCURRENT EXPERT EVIDENCE GUIDELINES

APPLICATION OF THE COURT'S GUIDELINES

1. The Court's Concurrent Expert Evidence Guidelines ("**Concurrent Evidence Guidelines**") are intended to inform parties, practitioners and experts of the Court's general approach to concurrent expert evidence, the circumstances in which the Court might consider expert witnesses giving evidence concurrently and, if so, the procedures by which their evidence may be taken.

OBJECTIVES OF CONCURRENT EXPERT EVIDENCE TECHNIQUE

2. The use of concurrent evidence for the giving of expert evidence at hearings as a case management technique[3] will be utilised by the Court in appropriate circumstances (see r 23.15 of the *Federal Court Rules 2011* (Cth)). Not all cases will suit the process. For instance, in some patent cases, where the entire case revolves around conflicts within fields of expertise, concurrent evidence may not assist a judge. However, patent cases should not be excluded from concurrent expert evidence processes.

3. In many cases the use of concurrent expert evidence is a technique that can reduce the partisan or confrontational nature of conventional hearing processes and minimises the risk that experts become "opposing experts" rather than independent experts assisting the Court. It can elicit more precise and accurate expert evidence with greater input and assistance from the experts themselves.

4. When properly and flexibly applied, with efficiency and discipline during the hearing process, the technique may also allow the experts to more effectively focus on the critical points of disagreement between them, identify or resolve those issues more quickly, and narrow the issues in dispute. This can also allow for the key evidence to be given at the same time (rather than being spread across many days of hearing); permit the judge to assess an expert more readily, whilst allowing each party a genuine opportunity to put and test expert evidence. This can reduce the chance of the experts, lawyers and the judge misunderstanding the opinions being expressed by the experts.

5. It is essential that such a process has the full cooperation and support of all of the individuals involved, including the experts and counsel involved in the questioning process. Without that cooperation and support the process may fail in its objectives and even hinder the case management process.

[3] Also known as the "hot tub" or as "expert panels".

CASE MANAGEMENT

6. Parties should expect that, the Court will give careful consideration to whether concurrent evidence is appropriate in circumstances where there is more than one expert witness having the same expertise who is to give evidence on the same or related topics. Whether experts should give evidence concurrently is a matter for the Court, and will depend on the circumstances of each individual case, including the character of the proceeding, the nature of the expert evidence, and the views of the parties.

7. Although this consideration may take place at any time, including the commencement of the hearing, if not raised earlier, parties should raise the issue of concurrent evidence at the first appropriate case management hearing, and no later than any pre-trial case management hearing, so that orders can be made in advance, if necessary. To that end, prior to the hearing at which expert evidence may be given concurrently, parties and their lawyers should confer and give general consideration as to:

   (a) the agenda;

   (b) the order and manner in which questions will be asked; and

   (c) whether cross-examination will take place within the context of the concurrent evidence or after its conclusion.

8. At the same time, and before any hearing date is fixed, the identity of all experts proposed to be called and their areas of expertise is to be notified to the Court by all parties.

9. The lack of any concurrent evidence orders does not mean that the Court will not consider using concurrent evidence without prior notice to the parties, if appropriate.

CONFERENCE OF EXPERTS & JOINT-REPORT OR LIST OF ISSUES

10. The process of giving concurrent evidence at hearings may be assisted by the preparation of a joint-report or list of issues prepared as part of a conference of experts.

11. Parties should expect that, where concurrent evidence is appropriate, the Court may make orders requiring a conference of experts to take place or for documents such as a joint-report to be prepared to facilitate the concurrent expert evidence process at a hearing (see Part 7 of the Expert Evidence Practice Note).

PROCEDURE AT HEARING

12. Concurrent expert evidence may be taken at any convenient time during the hearing, although it will often occur at the conclusion of both parties' lay evidence.

13. At the hearing itself, the way in which concurrent expert evidence is taken must be applied flexibly and having regard to the characteristics of the case and the nature of the evidence to be given.

14. Without intending to be prescriptive of the procedure, parties should expect that, when evidence is given by experts in concurrent session:

(a) the judge will explain to the experts the procedure that will be followed and that the nature of the process may be different to their previous experiences of giving expert evidence;

(b) the experts will be grouped and called to give evidence together in their respective fields of expertise;

(c) the experts will take the oath or affirmation together, as appropriate;

(d) the experts will sit together with convenient access to their materials for their ease of reference, either in the witness box or in some other location in the courtroom, including (if necessary) at the bar table;

(e) each expert may be given the opportunity to provide a summary overview of their current opinions and explain what they consider to be the principal issues of disagreement between the experts, as they see them, in their own words;

(f) the judge will guide the process by which evidence is given, including, where appropriate:

(i) using any joint-report or list of issues as a guide for all the experts to be asked questions by the judge and counsel, about each issue on an issue-by-issue basis;

(ii) ensuring that each expert is given an adequate opportunity to deal with each issue and the exposition given by other experts including, where considered appropriate, each expert asking questions of other experts or supplementing the evidence given by other experts;

(iii) inviting legal representatives to identify the topics upon which they will cross-examine;

(iv) ensuring that legal representatives have an adequate opportunity to ask all experts questions about each issue. Legal representatives may also seek responses or contributions from one or more experts in response to the evidence given by a different expert; and

(v) allowing the experts an opportunity to summarise their views at the end of the process where opinions may have been changed or clarifications are needed.

15. The fact that the experts may have been provided with a list of issues for consideration does not confine the scope of any cross-examination of any expert. The process of cross-examination remains subject to the overall control of the judge.

16. The concurrent session should allow for a sensible and orderly series of exchanges between expert and expert, and between expert and lawyer. Where appropriate, the judge may allow for more traditional cross-examination to be pursued by a legal representative on a particular issue exclusively with one expert. Where that occurs, other experts may be asked to comment on the evidence given.

17. Where any issue involves only one expert, the party wishing to ask questions about that issue should let the judge know in advance so that consideration can be given to whether

arrangements should be made for that issue to be dealt with after the completion of the concurrent session. Otherwise, as far as practicable, questions (including in the form of cross-examination) will usually be dealt with in the concurrent session.

18. Throughout the concurrent evidence process the judge will ensure that the process is fair and effective (for the parties and the experts), balanced (including not permitting one expert to overwhelm or overshadow any other expert), and does not become a protracted or inefficient process.

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Exhibit Certificate

No. NSD1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ACN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

ANNEXURE "B"

This is the Annexure marked "**B**" now produced and shown to Kathleen Stock at the time of affirming her affidavit on 23 October 2023 before me:

K Dewes

Solicitor for the Respondents

Tickle v Giggle

Federal Court of Australia (NSD1148 of 2022)

Expert Report of Dr Kathleen Stock

I have been instructed by solicitors representing the Respondents to prepare an independent expert witness statement in the above proceeding. I refer to my letter of instruction dated 20 October 2023 which askes the following question:

> **From an ontological perspective, based on your specialised knowledge, in your opinion, is a woman a socially constitutive fact or convention into which any human can self-identify at their discretion?**

Executive Summary

In this report I will apply a critical lens on the claim that womanhood is constitutively a social fact. To do so I largely reproduce the arguments and discussion recently published in my article 'Is Womanhood A Social Fact?', in A. Sullivan and S. Todd (eds.) *Sex and Gender: A Contemporary Reader* (Routledge 2023).

In this report, I'll examine and dismiss arguments seeking to establish that womanhood is constitutively a social fact, using the methodology standard to analytic philosophy I used in 'Is Womanhood A Social Fact?'. In answering the question on which I have been asked to provide my opinion, I'll critically discuss three argumentative routes to the conclusion that womanhood is social not biological, and I will dismiss them all:

A) Womanhood is identical with adult human femalehood. Adult human femalehood is social.

B) 'Woman' has at least two meanings. One of these refers to adult human femalehood. Another refers to a social fact.

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C) 'Woman' has only one meaning. It doesn't refer to adult human femalehood at all but to a social fact.

To commence: Let's agree that *names, concepts, ideas, and theories* of womanhood are human-made representations. I accept that these are all constitutively social entities. But, as has been pointed out by many, it doesn't follow that the *things that the names, concepts, ideas, and theories describe* are constitutively social (Hacking 1999, 21-22; Haslanger 2012, 152-157; Mallon 2019). Human-made representations can describe natural things. This is what, for instance, many scientific theories do: for example, gravity.

Another preliminary is this. An ostensibly quick route to the claim that womanhood was a social fact would simply point to the existence of a contemporary linguistic practice saying 'transwomen are women' (etc.), and argue that on its own, it's evidence that there's at least one sense in which womanhood is social not natural. But this is sub-optimal, not least because claims that transwomen are women (etc.) are highly contested. The assertion that womanhood is social not natural is often brought in, precisely, to bolster the impression of the truth of such claims. If womanhood is to be convincingly established as social, in a way that might help establish claims like 'transwomen are women', independent grounds must be found.

A. Womanhood is identical to adult human femalehood. Adult human femalehood is social.

Some, not all, objects are socially constructed.

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According to Hacking (1999) many human kinds are 'interactive kinds' that exhibit 'looping effects'. That is: the way that the kinds are classified enable members of the kind to conceive of themselves differently and so act differently, which then causes revisions in the conditions of membership of the kind. Interactive kinds are contrasted with 'indifferent' kinds: kinds that are indifferent to classification and relatively stable in the attributes of members as a result.

Womankind –in the sense of adult human femalekind – is not an interactive kind. All or nearly all natural languages, historical and actual, have a concept corresponding to the division between adult human males and females (Goddard 2001). It's reasonable to take the cross-cultural ubiquity of the concept *woman* as evidence that the category it refers to is stable and indifferent to classification (Tsou 2007, 339). A further point is that women and men also seem relatively easy for non-specialists to *perceptually* identify as such, most of the time (unsurprising, given that this is required for reproduction of the species, and is presumably hardwired).

It's true, of course, that some male people describe themselves as 'women' or 'not men'; and some female people describe themselves as 'men' or 'not women'; and that both facts apparently influence some other people to follow suit, so that within certain sub-cultures womanhood is no longer described as related to human biology at all. However, even in the case of genuinely interactive kinds, it would be unusual to count every ascription as inevitably accurate. And in fact, this scenario is compatible with other explanations than interactivity. On one plausible explanation, such usage is non-literal (Stock 2021, Chapter 6).

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For many, an apparently irresistible reason to think womanhood is constitutively social is that human femalehood, generally, is constitutively social. For instance, Dembroff (2021, 997) writes that 'binary classification of bodies as female and male is socially motivated'. This is best understood as saying that experts have discovered *a posteriori* that necessarily, femalehood is social not biological, despite previous understandings of it (Mallon 2019). But why should we accept this?

One reason offered by Dembroff is that sex 'classifications ... are historically and contextually variable' (2021, 997). But the fact a classification has a history doesn't make it social not natural (Byrne 2021, 20). For example, many people saw apples fall to the ground before Newton coined the term gravity. Natural kind classifications have histories too. Nor does the fact that sex classifications are, in Dembroff's words, 'typically vague, underdetermined, and ambiguous' make them social (2021, 997). On many standard accounts of natural kinds, a natural kind's boundaries are vague and underdetermined (Bird and Tobin 2018; Ludlow 2015, 65; Bogardus 2020a). For instance, within a given chemical reaction it can be indeterminate at a given point whether there is an acetic acid molecule or an ethanol molecule (Hawley and Bird 2011, 214). But there is no temptation therefore to say these molecules are social not natural kinds.

By far the most popular reason offered for the conclusion that femalehood is social is the existence of so-called 'intersex' conditions, more recently described as Disorders or Differences of Sexual Development (DSDs). For instance, Barnes (2020, 719) writes:

> The prevalence of intersex conditions seems to be enough to show that our gender terms are not simple synonyms for biological sex terms - even if ordinary speakers

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> often take them to be. Research increasingly shows a spectrum of sex variation between the male and female binaries.

Similar thoughts have attracted Butler (1990, 144-150); Stoljar (1995, 273); Saul (2012, 198); Ásta (2018, 72); Dembroff (2021, 999) and others. Yet whether the existence of DSDs threaten the idea of a sex binary depends on what sex, and a binary, is taken to be. Being a human female or a human male is plausibly understood in one of two ways, each of which accommodates nearly all DSDs unproblematically. On the first of these, being female essentially involves being a member of a species on a developmental pathway to the production of large gametes (as opposed to being a member of a species on a developmental pathway to the production small, motile gametes, which would make an entity male) (Byrne 2018). This is a cross-species account of being female, and alongside its complementary account of being male, can account for over 99.9.% of humans as male or female, including nearly all DSDs (Stock 2021: Chapter 2). A second account of sex is a human-specific one, which views femalehood and malehood as homeostatic property clusters of endogenous human sex characteristics, with no particular characteristic as necessary or sufficient. This can also account for nearly all humans as either male or female (ibid).

Both accounts leave a very few people with rare DSDs whose sexed status is genuinely ambiguous. However, the fact of sexual ambiguity for a very few shows nothing about the allegedly social nature of femalehood and malehood, unless it shows something similar for any concept where there is ambiguity at its 'edges' – which is very many concepts, and possibly even all of them. A 'binary' in biology always comes with the expectation of small amounts of variation. Indeed, *human being* is arguably indeterminate when it comes to Homo Erectus versus Homo Sapiens. It's also arguably in the nature of concepts generally to be

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indeterminate when it comes to peripheral hard cases (Ludlow 2014, Ch. 4). Admitting indeterminacy at the edges is compatible with the continued usefulness of natural concepts generally, and of *female* and *male* in particular, in causal inference, prediction, and explanation. Viewed in these terms, then, the sex binary is about as stable and as natural as it gets. (See Byrne 2020 and Bogardus 2020a for related discussion.)

i) Womanhood is constitutively social because the concept of human femalehood is essentially normative. Wherever a concept *X* is essentially normative, then X is constitutively social.

As part of her argument that human femalehood is socially constructed, Butler argues that sexed categories for humans are essentially normative, and constructed by reference to an idealised heterosexuality (1990, xi). For instance, you're a woman to the extent you're attractive to men, sexually desirous of men, reproductively fertile, and so on. For Butler, sexed categories create a hierarchy, empowering those who fit neatly within the norms for the categories, and disempowering those outside. Meanwhile, those outside the binary become illegible, inarticulable, even inhuman (1993, 8).

Let's accept that wherever a concept *X* is essentially normative – where social approval or disapproval is built into its meaning – then *X* is constitutively social, at least partly. We still need good reason to accept that the concepts *woman* and *female* (etc.) are inevitably normative. A standard distinction within analytic philosophy is between descriptive and prescriptive concepts: between describing and evaluating. Descriptive concepts, when applied by a thinker, imply no positive or negative evaluation, but neutrally refer to aspects of the world. The concepts of science – *atom*, *species*, *chemical element*, *gene*, and so on - are

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usually thought of as paradigmatically descriptive. On the traditional view of womanhood - which has yet to be dislodged - the concepts *woman* and the more general *human female* describe, not prescribe.

Butler rejects the whole distinction between description and prescription (1990, xxi). In rejecting this distinction, she is apparently appealing to a picture inspired by Foucault, according to which discursive categorization of humans into groups can only ever be a means of creating contingent, normative hierarchies of political dominance and subordination, rather than reflecting what was antecedently there (1990, 125-145). In other words, Butler's collapse of the descriptive into the prescriptive seems motivated, not by special concerns about sex categories but by a more global constructionist stance. But what we are looking for is *specific* reason to think that the concept *woman*, understood as adult human femalehood, is essentially normative. (For further discussion see Bogardus 2020a.)

The prospects don't look great. One specific reason offered is the fact of people with DSDs, who, Butler writes 'implicitly challenge the descriptive force of the available categories of sex' (1990, 148). However, as I just argued, at least two plausible accounts of the human sexes as natural kinds are available, both compatible with such variation. A different move would be to appeal to how the West deals with sexual variation culturally, to try and somehow motivate the idea that notions of human femaleness and maleness are arbitrary and prescriptive. Is the fact that some people with DSDs are subject to invasive surgery in early childhood good evidence that sexed categories generally are normative? No. Such surgeries are guided by an aesthetic norm, perhaps perniciously. That norm appeals approvingly to what is standardly or stereotypically found. However, this doesn't show that our concepts of

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sex themselves, designed to help us describe the structures found in nature, are intrinsically normative.

ii) Womanhood is constitutively social because adulthood is constitutively social.

Both Dembroff (2021,996) and Heartsilver (2021) attempt to argue that womanhood is social, partly on the grounds that adulthood is allegedly social. This looks strange, assuming that adulthood pertains to the moment of reaching sexual maturity. The advent and completion of sexual maturity, albeit vague in its precise timing, looks paradigmatically natural. (Recall that natural categories can be vague). In fact, it isn't just natural but visually detectable in many cases, due to the presence of secondary sex characteristics.

But Dembroff and Heartsilver suggest that people typically considered women and men are not 'adult' in the sense of being sexually mature – though they may be - but are 'adult' in a different, arguably stipulated and wholly social sense, pertaining to legal personhood. Sexual maturity typically tends to come too early to grant womanhood and manhood, they argue. Heartsilver adds: 'There is a wide range of ages at which girls complete puberty, but we do not, on that basis, recognize a wide range of ages at which girls become women' (2021, 4).

However, if Dembroff and Heartsilver were denying that 'adult' *ever* pertained to sexual maturity, they would surely be mistaken. In a recognisable sense, there are – if not a wide range, then at least, a range - of 'ages at which girls become women'. Around the world, a range of social arrangements are structured around adulthood, in the sense of the achievement of sexual maturity, for one or both sexes - the possibility of marriage being an obvious one in many cultures, and culturally specific rites of passage to adulthood being another. The linking

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of adulthood to sexual maturity gives sense to the phrase 'young adults', who may not yet have met legal majority requirements but are nonetheless correctly described as a kind of adult (Byrne 2021 makes a related point). Attempts to pin down legal majority in various societies are often inextricably linked to sexual maturity; in many cases they are designed to track it, at least roughly, by defining a relatively arbitrary cut-off point within a range. The point may be arbitrary, but the range is not.

I turn now to a different approach to the question.

B. 'Woman' has at least two meanings. One of these refers to adult human femalehood. Another refers to a different social fact.

On this sort of view, 'woman' is lexically ambiguous. One meaning is presumed to refer to adult human females - although in practice, those who adopt this approach tend to combine it with doubts about the naturalness of this category. A different meaning refers to something else which is social. Those who hold this view include Stone (2007), Bettcher (2013) and Laskowski (2020). It should be noted that this view does not show that woman are *not* identical to adult human females, as is sometimes implied (e.g. by Stone 2007, 141). The most it shows is that in one sense of 'woman', women are identical to adult human females, and in another sense, they are something else.

The prospects for lexical ambiguity here look limited, however. As Byrne (2020) notes, lexical ambiguity (roughly – two words with the same form, or one word with two senses, depending on your theory) tends to persist in natural language only where context makes clear what exactly is being referred to. Where disambiguation is hard to do from context

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alone, new forms of words tend to be found to make communication easier. If, *ex hypothesis*, 'woman' referred to something natural and, separately, to something 'social', then context alone presumably wouldn't be enough for disambiguation, and we should expect at least some pressure to rename one of the referents.

A further objection is that arguably 'woman' achieves unproblematic conjunction reduction, where a failure to achieve this is a standard test for ambiguity. With a term 'N' that is genuinely ambiguous between meanings N1 and N2, then 'N is x' can be true (because N1 is x) and 'N is y' can be true (because N2 is y), but 'N is x and y' will produce discordant and perhaps even comic zeugmatic effects. For instance, 'some banks are good for mortgages' is true of banks that, by definition, deal with money; and 'some banks are good for catching fish' is true of banks that, by definition, border rivers; but 'some banks are good for mortgages and catching fish' sounds discordant. In contrast, when we conjoin a predicate attached to a natural understanding of the term 'woman' (e.g. 'some women have ovaries'), and one attached to a supposedly social understanding of that term (e.g. 'some women have female gender identities'), arguably we don't get discordant effects: 'some women have ovaries and female gender identities' sounds fine. Similar failures seem to occur with other standard tests for ambiguity: ellipses, contradiction, and so on (Sennet 2021 summarises these).

Despite this lack of promise, we should still consider the reasons offered to think 'woman' is ambiguous. Two can be discounted quickly. Bettcher relies on a background picture where existing definitions of 'women' are inevitably in the service, not of reflecting pre-existing reality, but of 'distributions of power and the capacity to enforce a way of life' (2013, 242). Laskowski (2020) meanwhile just assumes that *prima facie* the word 'woman' is used to refer

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to two different kinds of entity, one natural and one social; what is treated as in dispute by the paper is how best to explain this.

Another gambit says that, in one sense of 'woman' though not the one that refers to adult human femalehood, cultural notions of femininity are part of its semantic content. An attempt to establish this point is made by Bettcher, who makes an inference from adjectives like 'womanly' and 'girly' to 'woman' and 'girl':

> adjectives such as "womanly," "manly," "girly," and the like.. have cultural traits packed right into their meaning. When somebody says, "Well, no. That's a bit too girly for me, I'm afraid," we shouldn't expect them to be complaining about having to dig ditches. (2009, 104).

The challenge here, however, is to establish the relevance of such denominalized adjectives to the nouns 'woman' and 'girl'. Though it's true that a stereotyped set of characteristics is built into the meaning of 'womanly', it's easy to find analogous cases of adjectives, identifying some restricted set of social attributes, which don't retrospectively alter either the intension or extension of the noun to which they are related, either way. 'Childish', 'presidential' and 'bushy' are three. Not all children are childish, nor presidents presidential, nor all bushes bushy; and not all women are womanly. (For discussion, see Bogardus, 2020a: 887-90).

A different attempt is made by Stone, who writes:

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> Consider that in everyday language, 'woman' not only suggest a female human being. It also suggests someone who occupies a specific social role, as in the phrase "a woman's place is in the kitchen" and it suggests someone with a specific set of psychological traits such as being liable to cry (hence the phrase 'boys don't cry'). (2007, 141)

This is also unconvincing. Claims like 'a woman's place is in the kitchen' and 'boys don't cry' are known as normative generics, and either function to describe general empirical tendencies in behaviour, or to place normative expectations on that behaviour. Either way, they characteristically admit of exceptions, and it would be odd to take these as claims about what it is, necessarily, to be a woman (or boy). (For related discussion, see Hesnia 2021).

A third argument might be pursued by way of remarks by Beauvoir (2011 [1949], 3). Does the fact that language-users sometimes talk about some females as 'real women'; or alternatively, talk of other females as 'not women' (etc.) suggest that there is a social – presumably normative - meaning to 'woman' in addition to the natural one? No; not unless it shows something about any concept subject to similar constructions, which is many of them. As was pointed out by J.L. Austin (1962, 70), whether something is counted as 'real' or not depends on what's effectively being excluded as uninteresting by way of the contrast in the current conversational context. (See also Hall 1959.)

Take for instance, the concept *diamond* – a natural one, referring to a carbon allotrope with four covalent bonds. A jeweller might still say of a huge, clear, sparkly diamond 'now, that's a real diamond!'; or to a seller of a small, dull one, 'Call that a diamond?' though both jeweller and seller both know that it is. Similar moves can be made for almost any concept

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

which identifies a kind of entity in which we have a specific social interest, in terms of some limited properties.

As competent speakers, we easily adapt and understand others' adaption of our use of nouns on the fly, to communicate the fact that an entity, understood by all parties as unproblematically falling under a noun, exemplifies a certain set of contingent expectations of that sort of thing really well - or doesn't Relatively easily, we temporarily invent or adapt concepts to suit present conversational purposes (Ludlow 2014). In claims about who is 'still very much a woman' or what's 'not a real diamond', for instance, there's what we might call a temporary escalation, whereby concepts plus attributive qualifiers such as 'real', 'not real' and/or certain emphases and tones of voice are used by speakers to draw attention to particular contingent properties of objects, currently of interest, or the lack of them. In the case of diamonds, this doesn't establish that generally 'diamond' means something other than a carbon allotrope with four covalent bonds. And *a fortiori* nor does it establish that 'diamond' refers, not to that form of carbon at all, but to the set of its socially-valued properties, such as being clear, sparkly, and large. Similar points go, *mutatis mutandis*, for 'woman'. Whatever is said to fall, or fail to fall, under a concept in temporarily escalated usage, falls under it unproblematically in a de-escalated one. Hence there is no great temptation to hive off the escalated use from the de-escalated one, and somehow make it a separate normative referent of the concept.

For every proposed case of ambiguity, we should check whether evidence can be accommodated to avoid semantic proliferation. Though of course our examination here hasn't been exhaustive, so far we have seen no compelling reason to accept that 'woman' is ambiguous.

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I turn now to the final approach to the question.

C. 'Woman' has only one meaning. It doesn't refer to adult human femalehood at all but to a social fact.

This approach, like the last, can accept that there is something real and natural called adult human femalehood; but argues that 'woman' does not refer to that fact, even ambiguously. Instead, 'woman' exclusively refers to something constitutively social.

As in the previous section, I start by objecting to the conclusion. Were it true that the concept *woman* referred only to something social and not to adult human femalehood, then – quite apart from the fact that we would need one heck of an error theory - the concept *woman* could not perform the functions that it currently performs. That is, it would disconnect the concept from hundreds of causal-explanatory discourses in which it has - at least, until recently - been easily and fruitfully located: for instance, discussions about women's distinctive medical needs; women's economic situation as related to their reproductive capacity; women's susceptibility to distinct forms of violence such as vaginal rape; women's involvement in heterosexual prostitution and surrogacy; women's sporting capacities as opposed to men's; women's position within religious movements; women's position within education; women's position within workplaces; and so on.

Each of these issues are inflected by the presence of adult human femalehood, understood as a natural state with multiple causal effects in a given social context. Nothing we have reviewed thus far has given us cause to doubt the real existence of adult human femalehood,

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or its social effects. If 'woman', despite appearances, somehow referred to something other than adult human femalehood, we should not expect these discourses to work successfully. In fact, were the concept *woman* ever to go this far off-piste, it would seem urgent to reengineer it immediately, reorienting it straight back towards adult human femalehood.

I turn now to three bad arguments for the conclusion.

i) Womanhood is constitutively social, because gender is constitutively social and womanhood is a gender.

It's sometimes assumed that womanhood is constitutively social because gender is constitutively social, and womanhood is a gender, not a sex. But this is to trade illegitimately on an ambiguity in the word 'gender'.

In one sense, gender is social, because it's unambiguously defined as such. In this sense, popularised from the 1960s onwards, 'gender' is the contingent set of sociocultural stereotypes, norms, and expectations surrounding biological sex; what is often referred to as femininity and masculinity. For instance, Gayle Rubin writes that: 'the "sex/gender system" is the set of arrangements by which a society transforms biological sexuality into products of human activity, and in which these transformed sexual needs are satisfied' (1975, 159). In this sense, then, gender is constitutively social, but womanhood itself is not a gender (or at least, we have not yet been given reason to think that it is). In another sense, womanhood *is* a 'gender' – but only because 'gender' is being used as a polite synonym for biological sex. In Elizabeth Gaskell's novel *Cranford*, for instance, one character refers to the 'masculine gender', meaning men, but not the set of social stereotypes and norms around malehood.

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The upshot is that we can't quickly get from saying 'gender is socially constructed' to saying 'womanhood is not adult human femalehood but some further social fact'. Surprisingly, this basic point is often overlooked by philosophers (for instance, Hacking 1999). If 'gender' means sociocultural aspects of sex, then it's tautological that gender is socially constructed but womanhood can still be thought of as identical to adult human femalehood, unproblematically. On the other hand, if 'gender' means 'woman', then the claim that womanhood is non-identical to adult human femalehood, and is something else that is social, needs to be argued for independently.

ii) Womanhood is non-identical to adult human femalehood and is constitutively social, because this avoids biological determinism

A frequently cited motive for the claim that womanhood is a social fact separate to the fact of adult human femalehood goes as follows:

> '[S]ex' denotes human females and males, and depends on biological features … Then again, 'gender' denotes women and men and depends on social factors … The main feminist motivation for making this distinction was to counter biological determinism: the view that one's sex determines one's social and cultural traits and roles (Mikkola 2016, 21).

In other words: womanhood is social not biological, because if womanhood were social not biological, it would avoid the politically difficult claim that women are biologically determined to be domestic, submissive, and so on (see also Saul 2012, 96; Bach 2012, 4.)

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This is a bad argument, viewed from any position which takes seriously the project of apolitical, true description of the world. The fact that certain descriptions, were they true, would help women avoid politically difficult claims has no bearing on whether those descriptions are actually true or not. Equally, if biological determinism did turn out to be true, choosing to avoid understanding womanhood in terms of biology wouldn't save us from it. (For further criticism see Alcoff 2006, 160-162; Bogardus 2020a, section 1.2; Stock 2021; 15).

Perhaps surprisingly, this argument form is not a historical anomaly in academic feminism, even from those methodologically distant from Judith Butler. On a currently popular view within analytic philosophy, the semantics of 'woman' are contextual; they refer, broadly speaking, to something social, though the specific referent changes from context to context, depending on background social variation of some kind. For Saul (2012), the relevant variation is in local standards governing judgements of similarity to femalehood; for Diaz Leon (2016), the relevant variation is in local 'normative standards'; for Barnes (2020, 720) the term 'woman' is used flexibly, and 'there aren't any deep, language-independent facts about which people are women'. In all cases, these authors start with the conviction that it is a desideratum of any account of womanhood to be (what they think of as) politically strategic or ethically just. Yet, as we have just seen, against a naturalistic picture, this argument form is terrible. Philosophers have often argued that 'you can't derive an 'ought' from an 'is', but this is manifestly worse: an attempt to derive an 'is' from an 'ought'.

iii) Womanhood is constitutively social, because womanhood is essentially subjective. Adult human femalehood is not essentially subjective. Essentially subjective states are constitutively social.

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In relatively recent history, some academic feminists have assumed that womanhood is a state essentially grounded in subjectivity not objectivity; from which it would seem to follow that an account of womanhood cannot be an account of adult human femalehood, since it is not essentially subjective. From this starting point, plus the additional assumption that the human subject or self is constitutively social, it's a short step to saying that womanhood is also constitutively social. Authors who have argued for something like the second step here - that the human subject or self is constitutively social - include Butler once again, alongside Heidegger, Sartre, Foucault, Derrida, and many others. But we need not engage here with the second stage, because the conclusion about womanhood can be undermined at an earlier stage. Namely: there is no good reason to think that womanhood is a state essentially grounded in subjectivity. Of course, most women are also subjects and have subjectivity, but women are not *essentially* subjects. To put it brutally: there are deceased women, unconscious women, women in comas or in vegetative states. None of these have subjectivity but they don't stop being women.

Why has this obvious point been overlooked? One reason is the influence of global versions of social constructivism upon academic feminism (Warnke 2018). If nothing intelligible exists prior to discourse, then, in a sense, everything intelligible is subjective (or at least, intersubjective). But this can't help us bolster a more local claim that womanhood in particular is constitutively subjective.

Another influence seems to be the fact that, as a political project, feminism has been primarily focused on women's experiences and (latterly) their identities, both of which are essentially subjective. However, the fact that feminism reasonably focuses on subjective

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aspects of womanhood obviously doesn't entail that womanhood itself is essentially subjective. And in any case, it would be bizarre to pretend that the only discourse in which the concept *woman* usefully featured was feminism. The concept is also essential to medicine, law, sport, criminal justice, education, leisure, and many other social contexts.

Whatever the motive, an obvious problem quickly emerges for any feminism that thinks of womanhood as essentially subjective: what is sometimes called 'the commonality problem'. As Warnke (2018) puts it: 'What experiences does a black Sudanese Muslim woman displaced by ethnic cleansing in Darfur share with the Queen of England?' There are no particular experiences that all women share, except couched at the most general of levels; and in trying to find some, feminists have often ended up privileging a narrow, self-regarding set. This isn't a problem for feminism *per se*, construed only as a political movement for women, since it would be both demanding and arbitrary to ask that feminism attended only to those experiences all women shared. But it *is* a problem for any version of feminism attached to a theory of womanhood as a subjective state, and it is also a problem for any such theory of womanhood itself. The many authors who have taken the commonality problem seriously include Spelman (1988); Young (1994); Bach (2012); and Mikkola (2016). Sometimes, as in the case of Spelman and Mikkola, the two challenges have been taken as partly indicating the futility of trying to offer a coherent concept 'woman' at all. Yet a rather more obvious solution to the commonality problem is to deny that the concept 'woman' refers to anything subjective.

D. Conclusion

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My concluding summary can be swift. In some quarters, including many feminist ones, it has become popular to say that womanhood is a social fact. Prolonged examination of this claim has established no good reason to agree. Womanhood is a natural fact, if any is. It is not a socially constitutive fact or convention into which a person can self-identify at their discretion.



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Dr Kathleen Stock

23 October 2023

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Hacking, Ian. 1999.*The Social Construction of What?* Cambridge, MA: Harvard University Press.

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Haslanger, Sally. 2012. *Resisting Reality*. New York: Oxford University Press.

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Hesnia, Samia. 2021. Normative generics: against semantic polysemy. *Thought*. Volume10, Issue 3. pp. 218-225

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Mallon, Ron. 2019. Naturalistic Approaches to Social Construction. *The Stanford Encyclopedia of Philosophy* (Spring 2019 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/spr2019/entries/social-construction-naturalistic/>.

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Saul, Jennifer. 2012. Politically Significant Terms and the Philosophy of Language: Methodological Issues. In *Out from the Shadows: Analytical Feminist Contributions to Traditional Philosophy*. Edited by S. L. Crasnow and A. M. Superson.. Oxford: Oxford University Press. pp.195-214.

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Spelman, Elizabeth.1988. *The Inessential Woman: Problems of Exclusion in Feminist Thought.* Boston: Beacon Press.

Stock, Kathleen. 2021a. *Material Girls: Why Reality Matters for Womanhood.* Fleet.

Stone, Alison. 2007. *An Introduction to Feminist Philosophy.* Cambridge: Polity.

Stoljar, Natalie. 1995. Essence, identity, and the concept of woman. *Philosophical Topics* 23: 261-93.

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Warnke, Georgia. 2018. Intersections Between Analytic and Continental Feminism. *The Stanford Encyclopedia of Philosophy* (Fall 2018 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/fall2018/entries/femapproach-analy-cont/>.

Young, Iris Marion. 1994. Gender as Seriality: Thinking about Women as a Social Collective. *Signs*, 19(3) pp. 713-738.

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KATHLEEN STOCK

UNITED KINGDOM
CIRRICULUM VITAE October 2023

Career History

- 2023-present: Co-director, The Lesbian Project.
- 2022-present: Contributing writer at UnHerd;
- 2022-present: Founding Fellow at the University of Austin.
- 2003-2021: Faculty member in Philosophy, University of Sussex. Promoted to Professor, 2018.
- 2002-3: Temporary Teaching Fellow in Philosophy, University of East Anglia.
- 2001-2: Temporary Lecturer in Philosophy, University of Lancaster.
- (Two maternity leave career breaks: July-Dec 2005: Jan-Jun 2008.)

Education

- 1991-1995. B.A (Hons.) in Philosophy and Modern Languages (French), University of Oxford. First Class.
- 1995-1996: M.Litt. in Philosophy, University of St. Andrews.
- 1997-2001: Ph.D. in Philosophy, University of Leeds. 'The Nature and Value of Imaginative Responses to the Fiction Film'. No corrections.
- Schools: Southesk Primary School; Montrose Academy, Montrose.

PUBLIC WORK

Recent career milestones

- 2023: shortlisted for "Columnist of the Year" by the British Society of Magazine Editors.
- 2023: Main participant in *Gender Wars* (Channel 4 documentary, broadcast June 6th 2023).
- 2023: interviewed at Oxford Union.
- 2022: Became co-director of The Lesbian Project, a not-for-profit organisation advocating for the interests of lesbians in the UK.
- 2022: voted "World's Top Thinker 2022" by *Prospect* Magazine readers.
- 2021: Became contributing writer (columnist) at *Unherd*.
- 2021: Became Founding Faculty Fellow at University of Austin. This is a new university established by Bari Weiss, Niall Ferguson, Aayan Hirsi Ali and others, in order to prioritise academic freedom.
- 2021: Awarded OBE for services to higher education (academic freedom).
- May 2021: Publication of *Material Girls: Why Reality Matters for Feminism*. Fleet, Little Brown. A *Times* best philosophy and ideas book of the year; a *Telegraph*

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book of the year. German and Spanish translations now published; Translation rights sold in Korean, Brazilian Portuguese, Taiwanese, French, Portuguese.

Selected non-academic writing

Telling women how to cut the risk of rape is anything but sexist. *Sunday Times* Sept 23rd 2023.

On your bike, Vogue — we can see what you think of women's sport. *Sunday Times* August 27th 2023

A prescription won't deal with our fear of death. A conversation might. *Sunday Times* July 23rd 2023.

What gives the Tate the right to decide a long-deceased female artist may have been trans just because of how she dressed? *Daily Mail*, May 23rd 2023.

I came out late – only to find that lesbians had slipped to the back of the queue. *Observer* 12 March 2023.

Charlie wouldn't cope in the outrage factory. *The Times*. Monday April 3rd 2023.

Gender wars: two opposing perspectives on the trans and women's rights debate. Robin White and Kathleen Stock. *Prospect* December 9th 2021.

An exercise in talking shop. *The Critic* 14th December 2021.

How to be a heretic. *Spectator*, 13th November 2021.

What is a woman? *Index on Censorship* Vol 50, Issue 2, 2021.

The new network for gender critical academics. *The Critic*, 17th June 2021.

A story about sex. *Tortoise Media*, 27th April 2021.

The sinister attempts to silence gender-critical academics, *The Spectator*, 13th January 2021.

Being wrong isn't hateful. *Unherd*, 6 February 2020

Sticks, Stones, and Lawsuits. *Standpoint Magazine*. 30th January, 2020.

Can You Change Your Gender?, *The Philosopher,* Summer edition 2019.

Stonewall's LGBT Guidance is Limiting the Free Speech of Gender Critical Academics. *Quillette*, 7th July 2019.

Maya Forstater says that women are adult human females: does this count as a philosophical belief? *The Article,* 10th May 2019.

Ignoring differences between men and women is the wrong way to address gender dysphoria. *Quillette*, April 11, 2019.

Can biological males be lesbians? *The Article*, 14th Jan 2019.

Stonewall's new definition of conversion therapy raises a few questions. *The Article*, 15th Nov 2018.

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

Why self-identification should not legally make you a woman. *The Conversation*, 1st October, 2019.

Blackface is Evil - Why Isn't Drag? *Standpoint*, October 2019.

There are fundamental differences between gay and trans identities. *The Economist*, 7th July, 2018.

Changing the concept of woman will cause unintended harms. *The Economist*, 6th July, 2018.

Book reviews

Review of Monsters: A Fan's Dilemma, *Times*, May 6th 2023.

Review of Clare Horn Eve, *Times*, March 4th 2023.

Review of Clare Mac Cumhaill and Rachael Wiseman, Metaphysical Animals, *Spectator* 29th January 2022.

Review of Julie Bindel, Feminism for Women, and Amia Srinivasan, The Right to Sex, *Spectator* 9th October 2021.

Review of Helen Joyce, Trans, *Daily Telegraph*, 17th July 2021.

Review of Judith Butler The Force of Nonviolence, *Times Literary Supplement*, May 15th 2020.

Parliamentary evidence

Invited witness in oral evidence session for Academic Freedom (Higher Education) Bill Reading, 7th September 2021.

Invited witness in oral evidence session for Woman and Equality Select Committee Enquiry on gender recognition reform, 9th December 2020.

Invited submission to Census (Amendment) (Scotland) Bill, about the 2021 Census.

Involvement in legal cases

2023: Expert witness in Amy Hamm vs British Columbia College of Nurses and Midwives tribunal.

2019: Witness for judicial review Harry Miller vs. College of Policing and Humberside Police. (Both witness statements extensively and positively referred to by the Judge in final ruling, and in Miller's appeal.)

Selected podcasts

Interviewee on *The Witch Trials of J.K. Rowling*, Honestly Podcast.

Interviewee on BBC Nolan Investigates: Stonewall, October 2021.

Guardian "Today in Focus" Podcast, "Understanding the fight over trans rights", October 10th 2020.

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Philosophy Bites Dave Edmunds: What is a woman? May 21st, 2019.

TV appearances

Gender Wars, Channel 4. June 6th 2023.

Good Morning Britain, 29th May 2023.

BBC Hard Talk, BBC. 17th January 2022.

Good Morning Britain, Is the JK Rowling backlash fair?, Jun 15th 2020.

Good Morning Britain, live debate on academic freedom, 29th January, 2020.

BBC Politics Live, live interview on gender self-ID, 19th October, 2018.

BBC Newsnight, pre-recorded interview on gender self-ID, 18th October, 2018.

BBC Southeast, pre-recorded interview on gender self-ID, 18th October , 2018.

Sky News, live interview on gender self-ID with Dr Clara Barker, 19th July, 2018.

Selected press interviews

Kathleen Stock: 'No matter what I say, to trans people I'll always be a villain' Daily Telegraph May 2023.

Kathleen Stock: 'Lesbians are in crisis – younger women don't like the word' *Daily Telegraph* March 9th 2023.

Kathleen Stock: "Nadie debería someterse a un cambio de sexo antes de los 25 años" Irene Hernández Velasco, *El Mundo*, 23 May 2022.

»Es handelt sich trotzdem um Männer, denen der Penis entfernt wurde« Jörg Schindler, *Der Spiegel*, 20th February 2022.

"Transgender-Frauen sind keine Frauen" Tessa Szyszkowitz, *Cicero*, 10th February 2022.

"Es herrscht eine Kultur der Angst". Tessa Szyszkowitz. *Falter* 2nd February 2022.

"I won't be bullied into submission". Mandy Rhodes, *Holyrood Magazine* 31st January 2022.

Kathleen Stock : "Je ne m'attendais pas à ce que le point culminant de ma réflexion philosophique soit de faire remarquer que les lesbiennes n'ont pas de pénis" Robert Wilson, *Charlie Hebdo* 31 December 2021. English version here.

"Das is verrükt" Anna-Lena Scholz, *Die Zeit* 15 December 2021.

Kathleen Stock: 'Je kunt je sekse niet veranderen'. Annemarie Kas. *nrc* Sat 11 December 2021.

Faces of 2021. Kathleen Stock: 'On social media, the important thing is to show your tribe that you have the right morals'. Gaby Hinsliff. *Observer* 5th December 2021.

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« Certaines de mes conférences ont dû être protégées par des agents de sécurité » : les universités britanniques confrontées à la bataille du genre. Cécile Ducourtieux, *Le Monde* 3rd December 2021.

Quand des universitaires féministes sont accusées de transphobie. Julie Zaugg, *Heidi.News* 24th November 2021.

Professor Kathleen Stock and the toxic gender debate. Janice Turner. *Times* 20th November 2021.

It wasn't just the students spreading lies and hounding me... It was many of my academic colleagues too. Kathleen Stock, *Mail on Sunday,* 6th November 2021.

Kathleen Stock, la supuesta 'enemiga' del movimiento trans que ha pedido protección policial. Rafa de Miguel. *El País*. 10th October 2021.

Hun ble i januar anklaget for transfobi av 600 kolleger. Nå har professoren skrevet bok. Mikkel Ihle Tande, *Aftenposten*. 28th July 2021.

Was Geschlecht heute noch bedeutet, Jakob Pallinger, Der Standard, 27th June 2021.

Kathleen Stock: taboo around gender identity has chilling effect. Joanna Moorhead, *Guardian* 22nd May 2021.

I refuse to be bullied into silence Kathleen Stock, *Mail on Sunday* 17th January 2021.

"Als ob man Harry Potter wäre": Die britische Philosophin Kathleen Stock über die Irrtümer Judith Butlers. Vojin Saša Vukadinović. *Cicero*. March 2020.

Kathleen Stock: "Hay una presión para no hablar de sexo biológico por si se ofende al colectivo 'trans'". Olga R. Sanmartín. *El Mundo*, 20 January, 2020.

Kathleen Stock: Life on the front line of transgender rights debate. Jack Grove. *Times Higher Ed,* 7th January, 2020.

Se dissenti dal gender sei licenziato. E la creatrice di Harry Potter protesta *Il Foglia.* 21 December 2019.

Meet the academics hunted down and hounded out of jobs for having the 'wrong' thoughts. Margarette Driscoll, *The Daily Telegraph,* 16th September, 2019.

El sexo como característica protegida: perspectiva académica. Raquel Rosario Sánchez, *El Caribe*. 28th Feb, 2019.

Censur, håndgemæng og anklager om had: Debatten om transkvinder splitter feminister. Troels Heeger, *Berlinske*. 22nd December, 2018.

ACADEMIC CAREER

Academic writing

Monograph

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

(Sept 2017) *Only Imagine: Fiction, Interpretation and Imagination*, Oxford: Oxford University Press. Hardback; paperback. Offers complementary theories of fictional truth, fiction, and imagination.

- "an immensely valuable account of fiction, of interest to both aesthetics and philosophy of language, and which successfully puts extreme intentionalism into play as a powerful, underrated framework for understanding fiction and its deployment of imagination." Emily Caddick Bourne, *Analysis* January 2019.
- "Her argumentation is crisp, clear, and compelling, and she invokes a wide array of examples drawn from actual works of fiction to defend her claims. The book should be of interest not only to philosophers working on fiction or imagination, but also to those working in philosophy of language and metaphysics." Amy Kind, *Mind*, October 2018.
- "For its breadth, systematic argument, and deliberate ground-up reconstruction of its concepts of imagination and truth-in-fiction, Stock's book should be read by anyone concerned with what determines the contents of stories." Jonathan Gilmore, *Notre Dame Philosophical Reviews,* May 2018.
- Was subject of a symposium in the January 2018 edition of B*ritish Journal of Aesthetics;* and a workshop in Fribourg in 2017 (see below).

Edited books

(2008) *New Waves in Aesthetics.* Palgrave Macmillan. Co-edited with K. Thomson-Jones.

(2007) *Philosophers on Music: Experience, Meaning and Work.* Mind Occasional Series, Oxford University Press. Reprinted in paperback 2010.

Single-authored Articles

On sex, gender, sexual orientation

(Forthcoming) The incoherence of gender abolition as a goal for radical feminism. *Heterodox Feminism.* Ed. P. Bueskens.

(2023) Is womanhood a social fact? *Sex and Gender identity: A Reader.* Eds. Selina Todd and Alice Sullivan. Routledge.

(2022) The importance of referring to human sex in language. *Law and Contemporary Problems*, Vol 85, no. 1.

(2020) Objectification. *International Encyclopedia of Ethics.* Ed. Hugh LaFollette. Wiley Blackwell.

(2019) Sexual orientation: what is it? *Proceedings of the Aristotelian Society*. Vol CXIX, Issue 3.

- Reprinted in (2022) *Philosophy of Sex: Contemporary Readings*. Ed. R. Halwani, J.M. Held, N. McKeever, and A.Soble. Rowman.

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

(2018) Sexual objectification, objectifying images and mind-insensitive 'seeing-as'. In Berqvist, Anna and Cowan, Robert (eds.) *Evaluative Perception*. Mind Association Occasional Series . Oxford University Press, Oxford, pp. 295-310.

(2015) Sexual Objectification. *Analysis* 55:2, pp.191-5.

- Offered free to download by Oxford University Press, as amongst top *Analysis* downloads of 2015. Most downloaded Analysis article, 2017.

On fiction and imagination

(2019) Knowledge from fiction and the challenge from luck. *Grazer Philosophische Studien*, 96 (3). pp. 476-496.

(2017) Fiction, testimony, belief and history. In H. Bradley, P. Noordhof, E. Sullivan-Bisset (eds.) A*rt and the Nature of Belief.* Oxford University Press. pp. 19-42.

(2017) Free indirect style and imagining from the inside. In J. Dodd (ed.) A*rt, Mind and Narrative: Themes from the Work of Peter Goldie.* Oxford University Press. pp. 103-121.

(2017) Imaginative resistance and Empathy. In H. Maibom (ed.) *Routledge Handbook of Philosophy* of Empathy. Routledge. pp. 327-339.

(2016) Imagination and Fiction. In A. Kind (ed.) *Routledge Handbook of Philosophy Imagination.* Routledge. pp. 204-217

(2016) Learning from fiction and theories of fictional content. *Teorema* XXV(3). pp. 69-83.

(2014) Does physiology help solve the 'paradox of fiction'?. In Gregory Currie, Aaron Meskin, Matthew Kieran, Jon Robson (eds). *Aesthetics and the Sciences of Mind.* Oxford University Press. pp. 205-227.

(2013) Imagination and Fiction: some issues. *Blackwell Philosophy Compass*. pp. 887-896.

(2012) Pornography and imagining about oneself. In H. Maes and J. Levinson (eds.) Art and Pornography: Philosophical Essays. Oxford University Press. pp.116-1362011) Fictive utterance and imagining. *The Aristotelian Society Supplementary Volume* Vol 85:1. p141-161.

(2011) Unpacking the Boxes: the Cognitive Theory of Imagination and Aesthetics. In P. Goldie & E. Schellekens (eds.) T*he Aesthetic Mind: Philosophy and Psychology.* Oxford University Press. pp. 268-85.

(2009) Fantasy, Imagination and Film. *British Journal of Aesthetics* 49:4, pp. 357-69.

- Reprinted in Andy Hamilton and Nick Zangwill (eds.) *Scruton's Aesthetics* (Palgrave Macmillan, 2012).

(2008) The Role of Imagining in Seeing-in. *Journal of Aesthetics and Art Criticism,* vol. 66:4, pp. 365-80.

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

(2007) Sartre, Wittgenstein and learning from imagination. In P. Goldie and E. Schellekens, *Philosophy and Conceptual Art*. Oxford University Press. pp.171-93.

(2006) Fiction and Psychological Insight. In M. Kieran and D. Lopes (eds.) *Knowing Art.* Springer. pp.51-66.

(2005) Resisting Imaginative Resistance. *Philosophical Quarterly*, Vol. 5:221; pp. 607-624.

(2003) The Tower of Goldbach and Other Impossible Tales. In M. Kieran and D. Lopes (eds.) *Imagination, Philosophy and the Arts*. Routledge. pp.106-124.

On art and aesthetics

(2016) What is this thing called Aesthetics?. In D. Pritchard (ed.) *What Is This Thing Called Philosophy?* Routledge. pp. 81-121

(2009) Definitions of Art. In S. Davies, K. Higgins, R. Hopkins, R. Stecker and D. Cooper (eds.) *A Companion to Aesthetics*. p.231-4. Wiley-Blackwell

(2005) On Davies' Argument from Relational Properties. *Acta Analytica,* Vol. 20:4, pp. 24-31.

(2003) Historical Definitions of Art. In S. Davies & A. Sukla (eds.) *Art and Essence* Praeger pp.159-177.

(2000) Some Objections to Stecker's Historical Functionalism. *British Journal of Aesthetics*, Vol. 40, No. 4, pp. 479-91.

(2013) Invited contributor to an audiotape for 'Philosophy of Narrative Art' module, Open University.

Professional recognition and reputation

- 2022-present: member of scientific committee, Fondazione Luigi Einaudi, Rome.
- 2018-2021: Vice-President of the British Society of Aesthetics.
- 2017-2021: Member of Advisory Council of the Institute of Philosophy, School of Advanced Study, University of London.
- 2017-2021: Member of Advisory Board of the Oxford University Press series: Philosophy of Memory and Imagination.
- 2008-2021: Editorial consultant to the British Journal of Aesthetics
- 2010-2016: Member of Council, Royal Institute of Philosophy.
- 2012-15: Elected member of the Board of Trustees, American Society of Aesthetics (3 year fixed term).
- 1999 – 2010: Secretary of the British Society of Aesthetics.

Evidence of contributions to wider community and society

- 2021-present: Trustee, Mangoletsi Trust. Charitable trust set up by philosopher Timothy Potts.

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- 2020-21: Trustee of the LGB Alliance. Charity founded to represent lesbian, gay, and bisexual rights in response to gender identity ideology.
- 2018- present: Extensive public speaking on subject of sex, gender, women's rights, and academic freedom. Major events include: Irish Women's Lobby inaugural event; two Woman's Place UK events in Brighton and at House of Lords, respectively.
- 2016-2020: Acting mentor as part of the Society of Women in Philosophy Mentoring scheme.
- June 2015: Invited group mentor at Society for Women in Philosophy Mentoring and Networking Workshop for graduate and early career women, University of York.

Invited lecture series

May 2018: Lectures on 'Emotion and Music' to Music Conservatoire, University of Applied Sciences and Arts of Southern Switzerland, Lugano.

April 2017: Mellon Foundation Global Visiting Scholarship, Claremont McKenna College, California. Gave a series of advanced undergraduate lectures on the imagination; and a public talk at the Athenaeum, 'Are there limits to what we can imagine?'.

May 2016: series of postgraduate seminars on imagination and fiction, Philosophy Department, University of Barcelona, Spain.

March 2012: series of lectures in Günne, Germany, Emotions and Aesthetics IK (a week long intensive interdisciplinary spring school offering courses in neurobiology, neural computation, cognitive science, artificial intelligence, and related areas).

Invited academic talks

28th-30th April 2020: LOGOS Barcelona, Workshop, Fiction, Narrative and Art Beyond Literature.

10th November 2018: 'Casting, Actors as Props, and 'Imaginative Forgetting' Casts and Casting conference, University of Hertfordshire.

6th November 2018: 'Imagination and Delusion', Belief, Imagination and Delusion conference, University of Birmingham.

19th October 2018: 'Fictional Interpretation and Conversational Implicature' Meaning, Intention and Authority conference, University College, London.

11th-12th June, 2018. 'Carving the imagination at its joints: the case of imaginative immersion' Memorial conference for Fabian Dorsch, University of Fribourg.

11th-13th September 2017: Introduction and responses. Workshop on Kathleen Stock's *Only Imagine*, University of Fribourg, Switzerland.

17th -18th November 2017: 'Imagination and Immersion' Philosophy Meets Literary Studies IV Workshop, University of Göttingen, Germany.

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

6th June 2017: 'Imagination, Fiction and Models', Imagination in Science workshop, University of Leeds, UK.

1st -2nd July 2016: 'Propositional Imagining is not 'belief-like'". Imagining Fictional Worlds workshop, University of Konstanz, Germany.

22nd April, 2016: 'Sexual Objectification, seeing-as and mind-insensitivity' University of Edinburgh Women in Philosophy Group.

23rd -4th November, 2015. 'Two theories of fiction'. Workshop on Fiction and Narrative, University of Uppsala, Sweden.

17th -18th July, 2015. 'Extreme intentionalism: the only sensible game in town'. Fiction and Depiction workshop, University of Hamburg, Germany.

16th -17th June 2015. 'Extreme intentionalism: the only sensible game in town'. Interpretative Practice: Language, Law, Science and the Arts conference, Institute of Philosophy, London.

27th February 2015. 'Learning from fiction, learning from history'. Aesthetic and Historical Understanding Workshop, New York University.

26th-27th January 2015: 'Imagining and free indirect style'. Perspectival Imagination workshop, Institut Jean Nicod, CRNS, Paris, France.

28th August-2nd September 2014: 'Offensively defending the imagination in a theory of fiction'. Invited keynote to ECAP8 (Eighth European Conference on Analytic Philosophy), University of Bucharest, Romania.

10th-12th December 2013: 'Free indirect style and imagining from the inside'. Imagination workshop, University of Padua, Italy,

13th-15th September 2013: 'Sexual objectification, perception and images'. Evaluative Perception conference: Aesthetic, Ethical, and Normative, University of Glasgow, UK.

30th-31st May 2013 'Fiction, belief, imagining and cognitive value'. Literary Fiction and Rationality conference, University of Tampere, Finland.

12th-13th May 2013 'The nature of fiction: why be generic when you could be imaginative?'. Fiction workshop, University of Barcelona, Spain.

24th -26th January, 2013. 'Seeing-as, imagining and understanding metaphor'. Aesthetic preferences, language games and forms of life: from Ludwig Wittgenstein conference, University of Florence, Italy.

6th -7th December,2012 'How belief-like is imagining?'. LANGCOG workshop on fiction and imagination, University of Lisbon, Portugal.

19th-21st April 2012. 'Mental images and the 'multiple use thesis''. Knowledge Through Imagination conference, Claremont McKenna College, California, USA,

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

7th--8th October 2011. 'Fictional Characters, Psychological Plausibility, and Knowledge'. Towards a Contemporary Aesthetic Education workshop, University of Tilburg, Netherlands.

8th-11th July 2011: 'Fictive Utterance and Imagining'. Joint Session of the Mind Association and the Aristotelian Society, Plenary Speaker, University of Sussex.

3rd February 2011. 'Physiology and the Paradox of Fiction'. The Imagination: Skeptical Challenges and Empirical Responses workshop; University of Leeds, UK.

5th-6th Nov, 2010. 'Mental images and the "multiple use thesis". Imagination and Imaginings: Perspectives from the Philosophy of Mind conference, University of Tuebingen, Germany,

28th-30th April 2010 'Fiction, assertion and imagining'. Fiction and Imagination conference, Eidos, University of Geneva, Switzerland.

22nd September 2009: 'The Content of a Mental Image'. The Unity of the Imagination workshop, White Rose Aesthetics Forum, University of Sheffield, UK.

4th-5th April, 2009 'Imagination, Belief and the Will', European Society of Aesthetics Inaugural conference, University of Fribourg, Switzerland.

21-22 May, 2009: What pornography can show us about imaginative responses to fiction". Art Aesthetics and the Sexual conference, University of Kent, UK.

22nd-24th July 2008 'Fantasy, Imagination and Art'. Conference on Scruton's Aesthetics, University of Durham, UK.

12th-14th June 2008 'Fictional Desires and Fictional Objects'. Inaugural Conference of the Centre for Philosophy and Literature, University of Sussex.

4th-6th October 2007 'Imagining and Pictures'. Imagination, Expression and Depiction Workshop, University of Fribourg, Switzerland.

12th-13th May 2006. 'Imagination and Motivation'. Imagination and Thought Experiments workshop, University of Bristol, UK.

29th June–3rd July, 2004. 'On Davies' Argument from Relational Properties'. Conference on David Davies's Art and Performance, University of Maribor, Slovenia.

June 4th-6th, 2004 'Are readymades real things?' Philosophy and Conceptual Art conference, University of London.

August 2003 'Literature, Intelligibility and Psychological Knowledge'. Knowing Art, University of British Columbia, Canada.

Departmental talks

Gender abolition as a radical feminist goal. Philosophy Department Seminar, UEA, March 8th 2021.

'Sexual Orientation: What is it?' Talk to the Aristotelian Society. 3rd June 2019.

DocuSign Envelope ID: 95DB5161-6CFC-490B-BB78-D202C1A2D81D

"What is a sexual orientation?" Philosophy Department Seminar, University of Southampton. 14th May 2019.

'What is a sexual orientation?' Philosophy Department Seminar, University of York, 24th January 2019.

'Pornography, speech and fiction'. Scottish Aesthetics Forum, University of Edinburgh, 24th January 2018.

'Pornography and fiction'. Philosophy Seminar, University of Nottingham November 1st 2017.

'What fiction can teach us about imagining', Birkbeck Philosophical Methodology seminar, June 21st 2016.

'Imaginative Resistance', University of London Aesthetics Forum, 15th June 2016.

'Sexual Objectification and seeing-as', University of Sheffield Philosophy Department, 6th May 2016.

'Radical Intentionalism: the only sensible game in town', Aesthetics seminar, Exeter College, Oxford, 26th January 2016.

'Imaginative resistance', University of Oxford Postgraduate group 'Empathy and Aesthetic Experience'. Wed 3 June 2015.

'Sexual objectification and seeing-as', Nottingham Trent University Philosophy Department, 3rd December 2014.

'Sexual objectification, images and seeing-as', University of Manchester Philosophy Department Seminar, 22nd October 2014.

'Sexual objectification and images', Open University Philosophy Department Seminar, 7th May 2014.

'Sexual objectification and images', British Society of Aesthetics Cambridge Lecture Series, 22nd April 2014, Darwin College, Cambridge.

'The nature of fiction: Why be generic when you can be imaginative?' University of Hertfordshire, 10th October 2013.

'How belief-like is imagining?' University of Essex Philosophy Seminar, 8th November 2012.

'Psychological Plausibility and Fictional Characters', University of Cardiff Philosophy seminar, November 16th, 2011.

'Imagining, images and the 'multiple use thesis'', University of York Philosophy seminar, 22nd February 2011.

'Fictive Utterance and Imagining', University of Nottingham, 16th Feb 2011

Seminar on Roger Scruton's Art and Imagination Ch. 7, From Freud to Fried: Twentieth-Century Philosophy and Theory of the Visual Arts Seminar Series, University of Oxford, 19th June 2009.

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'Fantasy and Cinema' University of London Aesthetics Forum, November 20th 2008.

'Fantasy, Imagination and Art' Philosophy Society, University of Reading, October 28th 2008.

'Fantasy, Imagination, and Art', Centre for Philosophy, Literature and Art seminar, University of Warwick, October, 7th, 2008.

'Imagination, belief and fantasy' Royal Institute of Philosophy seminar, University of Surrey, Roehampton, March 10th 2008.

'Wanting in Imagination', Philosophy Research Seminar, University of Southampton, March 13th 2007.

'Imagination and Desire' Royal Institute of Philosophy seminar series, University of Cardiff, February 26th, 2007.

'Imagination and Desire' Philosophy Research Seminar, University of Durham, Feb 1st 2007

'Imagination and Motivation', Philosophy Research Seminar, University of Manchester, September 27th, 2006.

'Imagination and Motivation'. 'Imagination and Thought Experiments' workshop, University of Bristol, 12th-13th May 2006.

'Learning from Imagination' Royal Institute of Philosophy seminar, University of Bradford, April 27th, 2005.

'Imagining Pictures', Philosophy Research Seminar, Dundee University. September 22nd, 2004.

'Fiction and Silly Questions'; Open University Philosophy summer school guest lecture, August 8th, 2004

'Minimalist sculpture and visual metaphor',' Philosophy and Conceptual Art' seminar series, Kings College, London March 18th, 2004.

'Silly Questions' University of Kent Philosophy Society, November 26th 2003.

External professional engagement

2018-2021: co-ordinator of 'Sex and Gender' informal academic network (with Michael Biggs, Oxford, and Chetan Bhatt, LSE): 'gender critical' academics working in biology, creative writing, criminology, cognitive science, gender studies, geography, history, law, medicine, philosophy, psychology, political theory, sociology, and other areas.

2018-2021: Vice-President of the British Society of Aesthetics.

2017-2021: Member of Advisory Council of the Institute of Philosophy, School of Advanced Study, University of London.

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2017-2021: Member of Advisory Board of the Oxford University Press series: Philosophy of Memory and Imagination.

2016-2020: Acting mentor, as part of the Society of Women in Philosophy Mentoring scheme.

2013-2018: Member of Advisory Committee of the Aesthetics Research Centre, University of Kent.

2008-2021: Editorial consultant to the British Journal of Aesthetics

2017: Member of program committee, British Society of Aesthetics Annual Conference, Oxford

June 2015: Invited group mentor at Society for Women in Philosophy Mentoring and Networking Workshop for graduate and early career women, University of York

2010-2016: Member of Council, Royal Institute of Philosophy.

2012-15: Elected member of the Board of Trustees, American Society of Aesthetics (3 year fixed term).

18-19 June 2013. Invited external assessor for the Department of Philosophy's Periodic Review, University of York.

8th-11th July 2011: Local organiser of the Joint Session of the Mind Association and the Aristotelian Society, plus British Society of Philosophy of Science conference.

2012: Member of program committee, American Society of Aesthetics Annual Meeting, St Louis, Missouri (for more on this Society, see 3.7 above).

2008-11: Member of the Editorial Board of the Postgraduate Journal of Aesthetics,

2009/10: 'Expert evaluator' for Agence d'Évaluation de la Recherche et de l'Enseignement Supérieur (AERES), France. Served on two panels assessing departmental research, at the University of Toulouse (2009), and the University of Grenoble (2010).

1999 – 2010: Secretary of the British Society of Aesthetics.

Teaching

I taught the following courses at u/g and MA level:

- Aesthetics
- Classical Philosophy
- Epistemology
- Ethics
- Feminist Philosophy.
- Language, Truth and Literature
- Philosophical Research Skills
- Political Philosophy

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PhD Supervision

2019-2021: Anna Wimbledon "Self-deception and oppression: An examination of the psychological mechanisms that maintain oppressive belief systems"

2018-2021: Jessica Stockdale. "What is medicine? A normative enquiry into the nature and boundaries of medical practice"

2011- 2012: Louise Hanson 'The Nature of Conceptual Art'. Ph.D. (Supervision on behalf of Oxford University). AHRC-funded. 100% supervision for final year.

2008-2012: Zoe Sutherland, 'A Phenomenology of Conceptual Art: Reassessing the Interaction Between the Aesthetic and the Cognitive'. Ph.D. P-T.

2010-16: Elaine O'Connell 'Emergent emotion'. Ph.D. P-T. AHRC funded. 10% supervision.

2008- 13: Angela Kyriakou 'On the Relevance of Intention to the Interpretation of Paintings'. M.Phil.

External examining

November 2019. Jamie Cawthra, PhD. University of York.

December 2018. Suzanne Mathies, PhD. Open University.

May 2018. Jack Davies. PhD. UCL.

January 2015. Ben McGorrigan, PhD. University of Nottingham.

August 2014. Anne-Sophie Brueggen, PhD. University of Ruhr-Bochum, Germany.

December 2013. Stephane Gasparini, PhD. University of Nancy II, France

June 2013. Karen Simecek, PhD. University of Warwick.

December 2011. Margherita Arcangeli, Phd. Institut Jean Nicod, Paris, France.

January 2007. Christopher Bartel, PhD. Kings College London.

University Administration

2016 -2020: Director of Teaching and Learning for the School of History, Art History, and Philosophy, Sussex University. Activities included:

- 2017: School lead for HAHP Periodic Review, Autumn term 2017, writing all documentation.
- 2016-2020: Member of University Examination and Assessment Regulations Sub-committee and Reasonable Adjustments sub-committee.
- 2017: Invited member of University's Impact Case Study Review Panel for the mock REF. Reviewed and rated 15 University impact case studies.

2014-15: Selected to attend year-long Ashridge Consultancy Leadership Programme, 'to develop current and emerging leaders in their roles'. Attended several full-day events, including a residential course.

2010-14: Head of Philosophy Department.

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	19/04/2023 5:55:39 PM AEST
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File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 59
Rule 29.02(1)

Affidavit

No. NSD 1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Roxanne Tickle
Applicant

Giggle for Girls Pty Ltd ACN 632 152 017 and another
First Respondent

Affidavit of:	**Julie Catherine O'Brien**
Address:	Level 3, 175 Pitt Street, Sydney NSW 2000
Occupation:	General Counsel, Australian Human Rights Commission
Date:	19 April 2023

I Julie Catherine O'Brien affirm:

1. I am the General Counsel of the Australian Human Rights Commission and I am authorised to make this affidavit on behalf of the Sex Discrimination Commissioner.

2. The Sex Discrimination Commissioner seeks leave to appear as *amicus curiae* in this proceeding.

3. The form of the appearance sought is limited to the filing of written submissions and the making of oral submissions, on the following issues:

   (a) the constitutional validity of the amendments to the *Sex Discrimination Act 1984* (Cth) (**SDA**) made by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth)

   (b) the meaning and scope of provisions of the SDA dealing with discrimination on the grounds of sex, gender identity and intersex status

Filed on behalf of Sex Discrimination Commissioner
Prepared by Graeme Edgerton
Tel +612 8231 4205
Email graeme.edgerton@humanrights.gov.au
Address for service Level 3, 175 Pitt Street, Sydney NSW 2000

817

(c) the meaning and scope of provisions of the SDA dealing with special measures

(d) any further matters in relation to which the Court wishes to hear from the Commissioner.

4. The Sex Discrimination Commissioner does not intend to make submissions about whether the conduct of the Respondents constituted unlawful discrimination.

5. The statements in paragraphs 8, 9 and 16 below are true to the best of my knowledge, information and belief based on my inquiries of relevant persons. The other statements in this affidavit are true based on my own knowledge.

Functions of the Sex Discrimination Commissioner

6. The office of the Sex Discrimination Commissioner is established by s 96 of the SDA.

7. The Sex Discrimination Commissioner has the function, pursuant to s 46PV of the *Australian Human Rights Commission Act 1986* (Cth) (**AHRC Act**) of assisting the Federal Court as *amicus curiae* in proceedings of a kind described in paragraphs (a) to (c) of s 46PV(1), with the leave of the court hearing the proceeding.

8. I am informed by the Sex Discrimination Commissioner, and believe, that:

(a) the Commissioner is of the opinion that this proceeding has significant implications for the administration of the SDA

(b) the Commissioner is satisfied that the proceeding involves special circumstances such that it would be in the public interest for her to assist the Court as *amicus curiae*.

9. I have caused lawyers working for the Commission to conduct searches using the online case citator CaseBase published by LexisNexis, the online legislation citator LawNow Plus published by LexisNexis and an online legislation citator available from the website www.jade.io for decided cases in federal courts where the reasons for decision involve a consideration of s 5B of the SDA. As a result of those searches, I understand that there have been no previous cases in federal courts that have made findings about whether conduct amounts to discrimination on the ground of gender identity, as described in s 5B of the SDA. Based on my review of the pleadings and affidavit material in this proceeding, I believe this proceeding is likely to require the Court to consider the interaction between discrimination on the ground of sex and discrimination on the ground of gender identity. The resolution of that question is likely to have significant implications for the administration of the SDA. For example, it will have implications for the Commission's functions of: inquiring into, and attempting to conciliate, complaints of unlawful discrimination (AHRC Act, s 11(1)(aa)); promoting an understanding and acceptance of, and compliance with, the SDA (SDA, s 48(1)(c)); undertaking educational

programs for the purpose of promoting the objects of the SDA (SDA, s 48(1)(e)); and publishing guidelines for the avoidance of discrimination on the grounds of sex and gender identity (SDA, s 48(1)(ga)).

10. At paragraph 5 of their Defence, the Respondents allege that 'the platform was a special measure intended to achieve equality' (presumably between men and women) for the purposes of s 7D of the SDA. This proceeding may require the Court to consider the meaning of the words "men" and "women" in s 7D, as well as the interaction between a purported special measure in those terms and the prohibition against discrimination on the ground of gender identity in s 5B. For example, the Respondents may contend that a special measure falling within s 7D(1)(a) does not constitute discrimination under s 5B, whereas an alternative construction is that a special measure properly falling within s 7D(1)(a) would only avoid breaching the prohibition against sex discrimination under s 5. The resolution of these questions is also likely to have significant implications for the administration of the SDA for the reasons identified in the previous paragraph.

11. At paragraph 37 of their Defence, the Respondents allege that ss 5B and 5C, which define discrimination on the grounds of gender identity and intersex status respectively, are constitutionally invalid. That raises a significant matter of public interest, given the impact that this would have, if established, on the ability of people who are discriminated against on these grounds to obtain redress for that discrimination.

Experience and expertise

12. The Commission is recognised by the United Nations as a national human rights institution which complies with the Principles relating to the Status of National Institutions (the 'Paris Principles') adopted by General Assembly resolution 48/134 of 20 December 1993.

13. At the request of the Court, the Commission has intervened in a number of proceedings in the then Family Court of Australia dealing with the procedural steps that trans children are required to adhere to in order to obtain access to gender affirming hormonal treatment. In the course of participating in those proceedings, the Commission has obtained substantial knowledge of the issues faced by young trans people, including their experiences of discrimination. Those proceedings have included:

    (a) *Re Jamie* [2013] FamCAFC 110

    (b) *Re Kelvin* [2017] FamCAFC 258

    (c) *Re Imogen (No 6)* [2020] FamCA 761.

14. The Commission has published a number of reports dealing with the experiences of gender diverse and intersex people, including their experiences of discrimination. The

preparation of those reports has involved substantial consultation with affected individuals and representative organisations. Those reports have included:

(a) *Addressing sexual orientation and sex and/or gender identity discrimination: Consultation Report* (2011)

(b) *Resilient Individuals: Sexual Orientation Gender Identity & Intersex Rights* (2015)

(c) *Guidelines for the inclusion of transgender and gender diverse people in sport* (2019)

(d) *Ensuring health and bodily integrity: towards a human rights approach for people born with variations in sex characteristics* (2021).

15. The Sex Discrimination Commissioner has been granted leave to appear as *amicus curiae* pursuant to s 46PV of the AHRC Act in a number of proceedings in this Court and the then Federal Magistrates Court involving the interpretation of provisions of the SDA, including proceedings dealing with:

(a) special measures (*Jacomb v Australian Municipal, Administrative, Clerical and Services Union* (2004) 140 FCR 149)

(b) discrimination on the ground of pregnancy (*Gardner v AANA Ltd* [2003] FMCA 81)

(c) discrimination on the ground of family responsibilities (*Howe v Qantas Airways Limited* [2004] FMCA 242)

(d) discrimination on the ground of marital status (*AB v Registrar of Births, Deaths and Marriages* [2006] FCA 1071)

(e) the 'competitive sporting activity' exemption (*Ferneley v The Boxing Authority of New South Wales* (2001) 115 FCR 306).

The Sex Discrimination Commissioner's proposed role as intervener

16. I am informed by the Sex Discrimination Commissioner and believe that she is mindful that her contribution to the proceeding should be useful and different from the contribution of the parties.

17. As a result, and given the confined issues which the Sex Discrimination Commissioner seeks to address, if the Commissioner is granted leave in my opinion her involvement in the proceeding should not significantly lengthen the proceeding, nor unreasonably interfere with the ability of the parties to conduct the proceeding as they wish.

18. In the circumstances, the Sex Discrimination Commissioner seeks an order that she have leave to appear as *amicus curiae*.

Affirmed by the deponent
at Sydney
in New South Wales
on 19 April 2023
Before me:

Signature of witness
Graeme Edgerton
Solicitor

Signature of deponent

Schedule

No. NSD 1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Second Respondent: Sally Grover

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
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Registrar

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Form 59
Rule 29.02(1)

Affidavit

No. 1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: Human Rights

ROXANNE TICKLE

Applicant

GIGGLE FOR GIRLS PTY LTD (ABN 632 152 017)

First Respondent

SALL GROVER

Second Respondent

Affidavit of:	**Sall Grover**
Address:	Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000
Occupation:	CEO
Date:	4 May 2023 affirmed

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Sall Grover affirmed on 4 May 2023.	1	2

Filed on behalf of (name & role of party) Sall Grover – second respondent
Prepared by (name of person/lawyer) Katherine Deves
Law firm (if applicable) Alexander Rashidi Lawyers
Tel 07 2139 0100 Fax
Email admin@rashidi.com.au
Address for service (include state and postcode) Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000

Deponent

K Deves
Witness

Document number	Details	Paragraph	Page
2	Annexure "SG-1", being a true copy of the complaint as received by me.	6	5
3	Annexure "SG-2", being a true copy of an email dated 3 February 2022 from AHRC to Ms Kerr.	7	12
4	Annexure "SG-3" is a true copy of a letter dated 3 March 2022 from Ms Kerr to the AHRC.	8	15
5	Annexure "SG-4" is a true copy of the email dated 8 March 2022 from the AHRC to Ms Kerr.	9	17
6	Annexure "SG-5" is a true copy of the email dated 11 March 2022 from Ms Kerr to AHRC.	10	20
7	Annexure "SG-6" is a true copy of is the email dated 1 April 2022 from AHRC to Ms Kerr.	11	24
8	Annexure "SG-7" is a true copy of is the letter dated 5 April 2022 from the Delegate of the President of the AHRC to Ms Kerr.	12	26

I Sall Grover of Level 12, Suite 1205, 239 George Street, Brisbane QLD 4000, CEO of Giggle for Girls Pty Ltd sincerely declare and affirm:

1. I am the Second Respondent and I am authorised to make this affidavit for and on behalf of the First Respondent (**Giggle App**).

2. At the time that the Applicant was removed from the Giggle App, I did not know who the Applicant was, nor was I aware of the Applicant's "gender identity".

3. In September 2021, the Applicant was removed from the Giggle App. I have no recollection of doing so, but it was my practice to remove any user or potential user of the Giggle App when an onboarding selfie depicted a male.

4. In October 2021, after the initial exclusion of the Applicant from the Giggle App, the Applicant called and texted me on my personal telephone number on numerous occasions, however, I did not respond. I felt afraid and harassed by the Applicant's attempts to contact me directly. I blocked the Applicant on my phone. I had already blocked the Applicant on my Twitter without knowing who the Applicant was, however, I am aware through posts that I have seen and sent to me by other social media users that the Applicant continues to post and tweet about me.

5. On 5 December 2021, the Applicant made a complaint to the Australian Human Rights Commission (**AHRC**) under section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**). The Applicant alleged the Applicant was being discriminated against on the basis of the Applicant's "gender identity".

6. On 20 January 2022, I received a copy of the Applicant's complaint to the AHRC.

Annexed hereto and marked SG-1 is a true copy of the complaint dated 5 December 2021 as received by me.

7. At the time I received the complaint, I was pregnant with my first pregnancy, which was a geriatric complicated pregnancy and I was unwell with COVID and hyperemesis gravidarum. It was for this reason that I sought an extension of time to respond to the Applicant's complaint.

Annexed hereto and marked SG-2 is a true copy of the email dated 3 February 2022 from AHRC to Ms Kerr granting a time of extension.

8. On 3 March 2022, I filed my response through my then solicitor, Ms Anna Kerr of Feminist Legal Clinic.

Annexed hereto and marked SG-3 is a true copy of a letter dated 3 March 2022 from Ms Kerr to the AHRC.

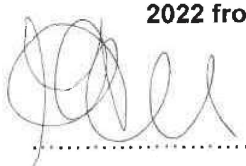
9. On . March 2022, the AHRC replied to my response and advised, among other things, that the Applicant would only consider the complaint resolved on the condition that the First Respondent did the following:

   a) seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females";
   b) extend full app functionality to Ms Tickle and all other people that identify as female as long as they comply with the terms and conditions of the platform; and
   c) invest more time and resources into moderating posts on the platform.

Annexed hereto and marked SG-4 is a true copy of the email dated 8 March 2022 from the AHRC to Ms Kerr.

10. On 11 March 2022, I was further along in my pregnancy and was continuing to experience debilitating hyperemesis gravidarum. Accordingly, I instructed Ms Kerr to respond to the AHRC on behalf of myself and the First Respondent to decline the opportunity of a conciliation with the Applicant.

Annexed hereto and marked SG-5 is a true copy of the email dated 11 March 2022 from Ms Kerr to AHRC.



.....

Deponent

K Deves

.....

Witness

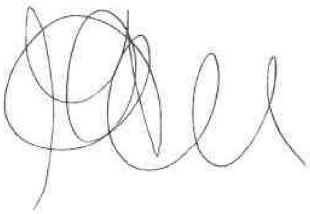
11. On 1 April 2022, Ms Kerr received an email from the AHRC in which it advised that the Applicant wished to escalate the matter by referring the complaint to the Delegate of the President of the AHRC on the grounds that the First Respondent and I did not wish to participate in the voluntary conciliation.

Annexed hereto and marked SG-6 is a true copy of the email dated 1 April 2022 from AHRC to Ms Kerr.

12. On 5 April 2022, Ms Kerr received a letter from Ms Lee, Delegate of the President of the AHRC, in which it advised the Applicant's complaint would be terminated on the basis of grounds that Ms Lee was "satisfied that there is no reasonable prospect of the matter being settled by conciliation".

Annexed hereto and marked SG-7 is a true copy of is the letter dated 5 April 2022 from the Delegate of the President of the AHRC to Ms Kerr.

Affirmed by the deponent)
At Brisbane)
In QLD)
on 4 May 2023)
Before me:)



Signature of deponent

K Deves

Signature of witness

Katherine Deves
Solicitor

***this affidavit was signed and sworn or affirmed by the deponent by audio visual link.
*** I used a scanned or electronic copy of the affidavit and not the original in completing the jurat requirements.

From: Australian Human Rights Commission
To: [redacted]
Subject: AHRC Make a Complaint Form
Date: Sunday, December 5, 2021 10:11:47 PM

Australian Human Rights Commission

Complaint

Your Details (Your complaint)

Name: **Ms Roxanne Tickle**

Address:
[redacted]

Email: [redacted]
Phone (After hours):
Phone (Business hours): [redacted]
Mobile:
Fax:
TTY:

Would you like a copy of your complaint emailed to you: **Yes**
(A copy of the complaint form will be sent to [redacted]

Do you require assistance to participate in the complaint process?:
No

Do you require assistance to participate in the complaint process?:
No

Do you have a legal representative or advocate?
No

Who is the complaint about

Organisation Details

Organisation name: **Giggle for Girls Pty Ltd**
ABN: **79 632 152 017**

Address:

Email: **hello@giggle-girl.com**
Phone (Business hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Provider of smart phone application

Do you want to add another respondent?
Yes

2nd Respondent's Details
Name: **Sall Grover**

Address:

Email: **sall@giggle-girl.com**
Phone (Business hours):
Phone (After hours):
Mobile:
Fax:

What is their relationship to you or the aggrieved person?:
Giggle for Girls Pty Ltd's Chief Executive Officer

What are you complaining about

I have been discriminated against because of my:

age: **No**
disability: **No**
association to a person with a disability: **No**
use of an assistance animal or disability aid or because I have a carer: **No**
sex: **No**
pregnancy: **No**
marital or relationship status: **No**
family responsibilities: **No**
sexual orientation: **No**
gender identity: **Yes**
What is your gender identity? **Female (more specifically ... a transgender woman)**

intersex status: **No**
race (including colour, national origin, descent, ethnicity and immigrant status): **No**
trade union activity (employment only): **No**
criminal record (employment only): **No**
religion (employment only): **No**
social origin (employment only) : **No**

Please state the other reason(s):
I believe that I am being discriminated against by being provided extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.

When did the alleged event(s) happen?
I became aware that I was being treated differently in September 2021.

Reason(s) for delay

What happened?
What Happened to Me 1. In February 2021, I downloaded Giggle from the Apple iPhone App Store and completed its in-app registration process. 2. Giggle is a social media app. It is marketed as "the female app". 3. The app registration process included supplying my mobile phone number, choosing a user name and taking a "selfie" from within the app. 4. Giggle's provider is Giggle for Girls Pty Ltd, a company based in Queensland. 5. Giggle for Girls Pty Ltd's CEO is apparently Sall Grover. 6. Giggle is marketed to, and is apparently used by, a global user base. 7. Giggle's terms clearly stipulate that app users must be female. 8. I am a NSW resident. 9. Although my sex assigned at birth was male, my birth certificate has been reissued confirming that my sex is female. I also have a gender confirmation letter from my physician

confirming that my gender is female. 10. Giggle apparently uses so-called bio-metric gender verification software to determine whether the registering user is "male" or "female" based on their "selfie", as well as using human beings in a secondary process to verify the software's gender determination. Presumably the gender verification software attempts to determine the applicant's sex assigned at birth, rather than their current legal sex or gender. 11. The so-called bio-metric gender verification software and human beings apparently both determined that my gender was female as I was permitted to complete my app registration. 12. Between February 2021 and September 2021, I occasionally opened the app and read randomly selected posts. 13. In late September 2021 I noticed that although I was able to read posts made by other users, I was unable to make comments on any of these posts, read any comments made by other app users or make any posts myself. I contacted Giggle through its in-app contact form to alert them of my restricted use. I received no response. 14. In early October 2021, I sent a follow up email to the main contact email address (sall@giggle-girl.com) listed on the app's website (joinagiggle.com). I received no response. 15. A week later I sent an email to the main contact email address (sall@giggle-girl.com) and the generic welcome email address (hello@giggle-girl.com). I received a response requesting that I supply my mobile phone number so the problem could be looked into. I provided my mobile telephone number as requested. I received no further response. 16. Over the next 4 weeks I sent a further 6 emails following up my query. I received no response to any of them. 17. I sent another follow up query through the in-app contact form. I received no response. 18. The singular emailed response that I did receive from Giggle, apparently from Sall Grover, contained an email signature panel with a mobile telephone number. 19. In late October 2021, I sent a text message to this number. I received no response. 20. In late October 2021, I made an unanswered phone call to this number. I decided to not leave a voice mail message. The voice mail system was one where the audio message is converted to a text message. After the trouble I had gone to to try and talk with the app provider, I thought direct voice communication was the best option. The following morning, I missed a returned phone call from this number. The caller did not leave a message. I tried calling the phone number again 1 week later and was unable to get through. 21. I considered at that point that I had gone over and above a reasonable level of effort attempting to make contact with the provider of the app. 22. My use of the app does not appear to be terminated, but vastly restricted. When I attempt to access certain app functionality, I am presented with a "User Blocked" error message. I am presented with the same error message if I attempt to purchase Premium Features in the app. 23. It appears that Giggle's provider only wishes cisgender women and transgender men to register for and use the app, apparently deliberately intending to exclude transgender women, cisgender men, and non-binary people. 24. Tweets published by Sall Grover's Twitter handle (@salltweets) appear to show a poor understanding of sex and gender, often using the terms interchangeably. The Twitter handle commonly refers to transgender

women as men and transgender men as women. 25. I have felt increasingly uncomfortable by announcements made by Sall Grover, both on Twitter and in interviews with various media outlets, both local and international, as well as posts made within the Giggle app itself by Sall Grover and other app users. 26. Transphobic comments posted in the app's social media discussion threads appear to not be moderated, and in fact appear to be encouraged, both within the app, and on Twitter, by Sall Grover. 27. I believe that I am being discriminated against because of my gender identity. I believe that Giggle and Sall Grover have decided in error that I am male and have declined to grant me full use of the app. If this is true, I am uncertain why I have been permitted to retain partial use of the app. How Does it Happen to me and Others? As a resident of NSW, along with other protected categories of people including those based on race, disability, sex, age, sexual orientation, intersex status, marital status and others, I am meant to be protected from discrimination based on my gender identity by legislation at both the state and federal level. This safety net appears to me to have some holes in it. Discrimination based on gender identity still seems to be fair game. It is often left to transgender and gender diverse people and their direct allies to be reactive at the time and place of any discrimination. It appears still to be an accepted form of bigotry amongst many people. Everybody has the right to be a bigot, somebody once said, and many people are continuing to make use of that right. It is the bigotry that need not hide its face. I can't recall hearing of an actual group of people that actively discriminates based on age. I have been unable to locate a Facebook page or website for the Ku Klux Klan in Australia. Yet groups that favour discrimination against people based on their gender identity appear to have no need to hide their face. They have Facebook pages. They have websites. They have email addresses. Here is a sample of Australian groups that have no fear in condoning and/or encouraging discrimination against transgender and gender diverse people: • Coalition for Biological Reality • LGB Alliance Australia • Save Womens Sport Australasia • Women Speak Tasmania • IWD Brisbane Meanjin • Feminist Legal Clinic Inc. Not only that, individuals with platforms, including journalists, politicians, business people, lawyers and others have no qualms about speaking out against transgender and gender diverse people and encouraging their readers, listeners and/or constituents to discriminate against transgender and gender diverse people. They don't campaign for legislative change, mind you, they just openly encourage discrimination. Because they are seemingly allowed to. In fact, for some of them it often appears to be their raison d'être. Here are a handful of examples: • Sall Grover: https://www.youtube.com/watch?v=4bqXNXQwgpk • Associate Professor Holly Lawford-Smith: https://www.youtube.com/watch?v=9GeTliLuoUs • Peta Credlin AO: https://www.skynews.com.au/opinion/peta-credlin/erasing-women-nsw-woman-of-the-year-could-be-awarded-to-a-trans-woman/video/a2c774ae1882c3d6fd9a79b256d4c36d • The Honourable Mark Latham MLC: https://www.news.com.au/national/nsw-act/politics/mark-latham-seeks-to-outlaw-ability-to-identify-as-

transgender-and-rejects-gender-fluidity/news-story/217dca3f008fb57ee825a4ef69a1156c • Senator Amanda Stoker: https://qnews.com.au/queensland-lnp-senator-calls-for-support-to-fight-transgender-agenda/ • Senator Pauline Hanson: https://www.starobserver.com.au/news/pauline-hanson-says-transgender-children-should-be-taken-from-parents/197282 • The Honourable Scott Morrison MP: https://www.sbs.com.au/news/gender-whisperers-scott-morrison-criticised-for-hateful-tweet-about-trans-students/513b958c-4dce-49a7-85ea-ebc9d3c6792d • Kirralie Smith: https://twitter.com/KirralieS/status/1159717711317889024?s=20 • The Honourable Barnaby Joyce MP: https://omny.fm/shows/drive-with-tom-elliott/barnaby-joyce-fires-back-at-mother-of-transgender • Senator Claire Chandler: https://fb.watch/9H_jLrMCxx/ • Annie Kia: https://anniekia.net/10-uncritical-allegiance-the-harms-of-queer-ideology/ • Katherine Deves: https://www.youtube.com/watch?v=U6sor5C3Y60 • Bernard Lane: https://www.smh.com.au/business/companies/substantial-distress-press-watchdog-rebukes-the-australian-for-reporting-on-gender-issues-20210903-p58oi7.html These are just some names that spring to mind and some easily found relevant material. I could go on and on if I had the time and resources. To the best of my knowledge, none of the individuals mentioned above have any qualifications or experience in psychology, psychiatry, paediatrics, gender counselling or indeed any relevant area of primary or ancillary health care. Why is it, then, that they believe that they get to control the public narrative about our lives? What is the point of having legislation to protect us from discrimination when it appears that so many people with such prominent platforms have no regard for it? Not only that, but they openly and unashamedly encourage their readers, listeners and/or constituents to flout the legislation as well. Transgender and gender diverse people, along with their closely connected allies, are often left to defend themselves against incidences of discrimination. Often, they overlook the discrimination due to the huge amount of emotional labour and stress involved in following up and prosecuting the discrimination. This is overwhelmingly the case when Sistergirls and Brotherboys are involved, as it usually is with any other instances of intersectionalism. My complaint relates to what I believe has been, and continues to be, discrimination against me, but I have also witnessed other trans women and their allies ejected from Giggle without repercussion. I have witnessed other instances of discrimination and verbal assault based on gender identity. People usually say nothing, put their head down and attempt to carry on with their lives with a concomitant decline in their mental health. We have often tended to attempt to live with discrimination in the past because obtaining a favourable outcome, although it may be better for our mental health in the long term, is only good for our mental health if we are successful … when we are successful. Until then, if it indeed happens, it is detrimental to our mental health. So we usually put our head down and try to move on. Acts of discrimination against transgender and gender diverse people happen far too frequently, without penalty. Why is it

that trans and gender diverse people and their allies are often left alone to fight to defend their already existing legal rights? Must we be the ones to take legal action each and every time it happens? Must we? Surely there must be a better way?

Do you intend to email the Commission supporting information?
No

Upload Document File ID:

Other Information

How do you think the complaint could be resolved?
Giggle management should seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females". Giggle should extend full app functionality to me and all other people that identify as female as long as they comply with all other app terms & conditions.

Have you complained about this to another organisation?
No

Were you referred to us by another organisation?
Yes

Organisation's name: **Queensland Human Rights Commission**



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Katherine Deves

From: Anna Kerr <anna@feministlegal.org>
Sent: Thursday, 3 February 2022 4:22 PM
To: Bridie K. Nolan
Subject: Fwd: Complaint by Roxanne Tickle against Giggle for Girls Pty Ltd (Giggle) - Our ref: 2021-25534 [SEC=OFFICIAL:Sensitive]

-------- Forwarded Message --------
Subject:RE: Complaint by Roxanne Tickle against Giggle for Girls Pty Ltd (Giggle) - Our ref: 2021-25534 [SEC=OFFICIAL:Sensitive]
Date: Thu, 3 Feb 2022 05:02:35 +0000
From: Kate Cameron [redacted]
To: Anna Kerr <anna@feministlegal.org>
CC: Sali Grover <sall@giggle-girl.com>

Dear Anna,

Thank you for your email.

In light of the circumstances, the Delegate is prepared to grant Ms Grover and Giggle a one-month extension. Please provide the response by Thursday, 3 March 2022. Please also note, it is the Commission's usual practice to provide a copy of the response to the complainant.

Regards,

Kate Cameron
Information and Investigation Officer
Investigation and Conciliation Section (ICS)

Australian Human Rights Commission
GPO Box 5218, Sydney NSW 2001
[redacted] W www.humanrights.gov.au

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-----Original Message-----
From: Anna Kerr <anna@feministlegal.org>
Sent: Tuesday, 1 February 2022 1:00 PM
To: Kate Cameron [redacted]
Cc: Sall Grover <sall@giggle-girl.com>
Subject: Complaint by Roxanne Tickle against Giggle for Girls Pty Ltd (Giggle) - Our ref: 2021-25534

[You don't often get email from anna@feministlegal.org. Learn why this is important at http://aka.ms/LearnAboutSenderIdentification.]

Dear Ms Cameron

I am instructed by Sall Grover in respect to the above matter in which she is named as a respondent and I attach her signed authority in this regard.

I refer to your emails of 20 January 2022 to Ms Grover and can also confirm Ms Grover is CEO of Giggle for Girls Pty Ltd with ABN 79 632 152 017.

We are currently still in the process of obtaining instructions from Ms Grover and obtaining advice from counsel due to the complexity of the issues raised by the complaint. We note that Ms Grover is pregnant and is still recovering from COVID. We would appreciate it if you could provide an extension of time of at least a month for Ms Grover to supply her response to the complaint.

Please do not hesitate to contact me on 0402 467476 if needed.

Regards

Anna Kerr

--
Anna Kerr
Principal Solicitor
Feminist Legal Clinic
PO Box 273
Summer Hill NSW 2130
Mob: 0402 467 476
anna@feministlegal.org
[redacted]

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SG-3



Feminist Legal Clinic Inc.
PO Box 273, Summer Hill NSW 2130
Mobile: 0402 467 476
www.feministlegal.org
ABN: 17 360 484 300

Kate Cameron
Information and Investigation Officer
Investigation and Conciliation Section (ICS)
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001

By email: [redacted]

Dear Ms Cameron

Re: Complaint by Roxanne Tickle against Giggle for Girls Pty Ltd ("Giggle")
Your ref: 2021-25534

We confirm that Feminist Legal Clinic acts for Sall Grover and Giggle in respect to the above matter.

Ms Grover confirms that the complainant was considered male based on a visual inspection of the selfie provided, and on this basis was removed from the app. This was in accordance with Giggle's terms and conditions which clearly state: "*You must be female to use the app*" and "*You must be female to create an account*".

The Giggle app constitutes a special measure aimed to achieve substantive equality between men and women and its exclusion of males is reasonable in the circumstances. Giggle aims to provide a safe social networking app for females to connect with each other online, free from male harassment, and therefore it is the nature of the service that it can only be provided to members of the female sex. As such, the exclusion of males by Giggle falls within the exceptions provided pursuant to section 7B, 7D and 32 of the *Sex Discrimination Act.*

Following the complainant's initial exclusion, the complainant's multiple emails and phone calls to Ms Grover's personal number constituted harassment, which constitutes a standalone basis for blocking the complainant's access to the site.

Ms Grover also observes the complainant's conflicting statements indicating that the complainant has already enjoyed some access to the Giggle app and indeed is

continuing to use it. This has not occurred with Ms Grover's knowledge and she can only presume the complainant has successfully established and is operating a Giggle account using an alternative phone number. We attach a copy of a recent social media posts where the complainant claims on 24 January 2022 to have been admitted to Giggle and to currently have access to the app and describes it as "very affirming". These tweets were made only four days after Giggle received the complaint lodged with the Commission.

In view of this, we would suggest the complaint is unfounded, vexatious and unmeritorious. This is particularly so as the complainant's gender related identity was not known to Ms Grover or other Giggle personnel at the time of removal and did not inform the decision to preclude the claimant from using the app. The Commission can be comfortably satisfied, having regard to all the circumstances, that any continuation of an inquiry into this complaint is not warranted and it should be dismissed.

Yours faithfully



Anna Kerr
Principal Solicitor

Date: Tue, 8 Mar 2022 23:02:49 +0000
From: Kate Cameron [redacted]
To: Anna Kerr <anna@feministlegal.org>

Dear Anna,

I refer to Ms Roxanne Tickle's complaint to the Australian Human Rights Commission (the Commission) against Giggle for Girls Pty Ltd (Giggle) and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth). I also refer

to your email to the Commission of 3 March 2022, providing the respondents' response to the complaint.

The Commission has had the opportunity to review the information provided by the parties and is of the view that the complaint sets out sufficient details of a reasonably arguable claim of discrimination and, as such, conciliation appears appropriate.

As advised in my email of 20 January 2022, Ms Tickle has advised that she would consider the matter resolved if Giggle agrees to:

a. seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females",

b. extend full app functionality to Ms Tickle and all other people that identify as female as long as they comply with the terms and conditions of the platform, and

c. invest more time and resources into moderating posts on the platform.

Please advise whether the respondents would be willing to participate in a voluntary conciliation process to explore the possible resolution of the matter by **Wednesday, 16 March 2022**.

If the respondents do not wish to participate in conciliation, or if the matter cannot be resolved by conciliation, I will refer the matter to the President's Delegate for her consideration.

For your information, under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) the President must terminate a complaint if satisfied that there is no reasonable prospect of the matter being settled by conciliation.

If the Delegate does terminate the complaint on this ground, Ms Tickle will be issued a Notice of Termination. This will give her the option of pursuing the complaint at the Federal Court of Australia or the Federal Circuit and Family Court of Australia to determine the allegations. She would have to lodge at the court within 60 days of the date on the Notice of Termination.

If you require further information or discussion, please feel free to contact me on (02) 9284 9616.

Regards,

Kate Cameron
Information and Investigation Officer
Investigation and Conciliation Section (ICS)

Australian Human Rights Commission
GPO Box 5218, Sydney NSW 2001
[redacted] W www.humanrights.gov.au

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SG-5

Katherine Deves

From: Anna Kerr <anna@feministlegal.org>
Sent: Friday, 11 March 2022 3:56 PM
To: Bridie K. Nolan;
Subject: Fwd: Our ref: 2021-25534 [SEC=OFFICIAL:Sensitive]

FYI

-------- Forwarded Message --------
Subject:RE: Our ref: 2021-25534 [SEC=OFFICIAL:Sensitive]
Date: Fri, 11 Mar 2022 03:26:26 +0000
From: Kate Cameron [redacted]
To: Anna Kerr <anna@feministlegal.org>
CC: Sall Grover <sall@giggle-girl.com>

Dear Anna,

Thank you for your advice.

I will convey to Ms Tickle that the respondents have declined to participate in conciliation and then refer the matter to the President's Delegate for her consideration.

The Delegate will write to the parties of her decision in due course.

Regards,

Kate Cameron
Information and Investigation Officer
Investigation and Conciliation Section (ICS)

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From: Anna Kerr <anna@feministlegal.org>
Sent: Friday, 11 March 2022 9:22 AM
To: Kate Cameron [redacted]
Cc: Sall Grover <sall@giggle-girl.com>
Subject: Re: Our ref: 2021-25534 [SEC=OFFICIAL:Sensitive]

Dear Kate

Thank you for your email of 10 March 2022. Ms Grover instructs us on behalf of Giggle, as well as herself personally, that she will decline the opportunity of a voluntary conciliation with Roxanne Tickle. Ms Grover is disappointed by the failure of AHRC to dismiss this complaint as unfounded and vexatious and to recognise that it constitutes a continuation of a campaign of harassment by the complainant. Allowing access to the complainant would defeat the purpose of the Giggle app which aims to provide a safe space for women and girls to network free of harassment. In the circumstances it would seem that there is no reasonable prospect of conciliation.

Regards

Anna Kerr

Anna Kerr
Principal Solicitor
Feminist Legal Clinic
PO Box 273
Summer Hill NSW 2130
Mob: 0402 467 476
anna@feministlegal.org
www.feministlegal.org

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On 9/3/22 10:02 am, Kate Cameron wrote:

> Dear Anna,
>
> I refer to Ms Roxanne Tickle's complaint to the Australian Human Rights Commission (the Commission) against Giggle for Girls Pty Ltd (Giggle) and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth). I also refer to your email to the Commission of 3 March 2022, providing the respondents' response to the complaint.
>
> The Commission has had the opportunity to review the information provided by the parties and is of the view that the complaint sets out sufficient details of a reasonably arguable claim of discrimination and, as such, conciliation appears appropriate.

As advised in my email of 20 January 2022, Ms Tickle has advised that she would consider the matter resolved if Giggle agrees to:

1. seek out education relating to sex, gender and gender identity to be better placed to provide a smart phone app targeted at "females",
2. extend full app functionality to Ms Tickle and all other people that identify as female as long as they comply with the terms and conditions of the platform, and
3. invest more time and resources into moderating posts on the platform.

Please advise whether the respondents would be willing to participate in a voluntary conciliation process to explore the possible resolution of the matter by **Wednesday, 16 March 2022**.

If the respondents do not wish to participate in conciliation, or if the matter cannot be resolved by conciliation, I will refer the matter to the President's Delegate for her consideration.

For your information, under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) the President must terminate a complaint if satisfied that there is no reasonable prospect of the matter being settled by conciliation.

If the Delegate does terminate the complaint on this ground, Ms Tickle will be issued a Notice of Termination. This will give her the option of pursuing the complaint at the Federal Court of Australia or the Federal Circuit and Family Court of Australia to determine the allegations. She would have to lodge at the court within 60 days of the date on the Notice of Termination.

If you require further information or discussion, please feel free to contact me on (02) 9284 9616.

Regards,

Kate Cameron
Information and Investigation Officer
Investigation and Conciliation Section (ICS)

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Katherine Deves

From: Anna Kerr <anna@feministlegal.org>
Sent: Friday, 1 April 2022 12:00 PM
To: Sall Grover
Subject: Fwd: AHRC ref: 2021-25534 [SEC=OFFICIAL:Sensitive]

-------- Forwarded Message --------
Subject: AHRC ref: 2021-25534 [SEC=OFFICIAL:Sensitive]

Date: Fri, 1 Apr 2022 00:31:01 +0000
From: Kate Cameron [redacted]
To: Anna Kerr <anna@feministlegal.org>

Dear Anna,

I refer to Ms Roxanne Tickle's complaint to the Australian Human Rights Commission (the Commission) against Giggle for Girls Pty Ltd (Giggle) and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth).

Thank you for your patience.

Yesterday, Ms Tickle advised the Commission that she still wishes to pursue the matter.

As noted in my email on 9 March 2022, under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA) the President must terminate a complaint if satisfied that there is no reasonable prospect of the matter being settled by conciliation. As Giggle and Ms Grover do not wish to participate in conciliation, I will now refer the complaint to the Delegate of the President with the recommendation that the complaint be terminated under this ground.

If the Delegate does terminate the complaint on this ground, Ms Tickle will be issued a Notice of Termination. This will give her the option of pursuing the complaint to the Federal Court of Australia (FCA) or the Federal Circuit and Family Court of Australia (FCFCA) to determine the allegations. She would have to lodge at the court within 60 days of the date on the Notice of Termination.

Please note, the FCA and FCFA can award costs against either party in proceedings under section 46PO of the AHRCA.

Please do not hesitate to contact me if you have any questions about the above.

Regards,

Kate Cameron

Information and Investigation Officer
Investigation and Conciliation Section (ICS)

Australian Human Rights Commission
GPO Box 5218, Sydney NSW 2001
[redacted]
W www.humanrights.gov.au

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Australian Human Rights Commission

Our ref: 2021-25534

5 April 2022

Ms Anna Kerr
Principal Solicitor
Feminist Legal Clinic
Sent by email only: anna@feministlegal.org

Dear Ms Kerr

Termination of the complaint

I refer to Ms Roxanne Tickle's complaint to the Australian Human Rights Commission against Giggle for Girls Pty Ltd and Ms Sall Grover, alleging gender identity discrimination under the *Sex Discrimination Act 1984* (Cth).

I have informed Ms Tickle of my decision to terminate the complaint under section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRCA), as I am satisfied that there is no reasonable prospect of the matter being settled by conciliation.

The AHRCA says that after a complaint is terminated, the person affected by the alleged discrimination may apply to the Federal Circuit and Family Court of Australia (FCFCOA) or the Federal Court of Australia (FCA) to have the allegations decided by the court. Any such application must be made within 60 days of the date on the Notice of Termination.

The FCFCOA and FCA can award costs against either party in proceedings under section 46PO of the AHRCA.

Today I issued Ms Tickle with a Notice of Termination.

Please provide a copy of this letter to your clients for their records.

Yours sincerely

Hyun Joo Lee
Delegate of the President

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 01 March 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Media access be granted to the applicant's affidavit of service dated 12 January 2023.
2. By 4.00 pm on 23 March 2023:
   (a) the applicant file and serve:
      (i) a statement of claim;
      (ii) submissions and any affidavit evidence for the application for an extension of time particularised in the originating application;
      (iii) any application for an order specifying the maximum costs as between party and party that may be recovered in relation to the proceeding pursuant to r 40.51 of the *Federal Court Rules 2011* (Cth), together with submissions and any supporting affidavit evidence.
   (b) the respondent file and serve:
      (i) submissions and any affidavit evidence for the notice of objection to competency of the originating application;
      (ii) any interlocutory application for security for costs, together with submissions and any supporting affidavit evidence.
3. By 4.00 pm on 6 April 2023:
   (a) the applicant file and serve submissions and any affidavit evidence in response to:
      (i) the notice of objection to competency of the originating application; and

(ii) any application for security for costs.

(b) the respondents file and serve:

(i) a defence to the statement of claim;

(ii) submissions and any affidavit evidence in response to the application for an extension of time; and

(iii) submissions and any affidavit evidence in response to any application for an order specifying the maximum costs as between party and party that may be recovered;

(iv) an affidavit of service in relation to any notices under s 78B of the *Judiciary Act 1903* (Cth) of any constitutional issue sought to be raised in the proceeding, as adverted to by counsel for the respondent at the case management hearing on 17 February 2023, all such notices to be served on the applicant and all of the Attorneys-General of the Commonwealth, States and Territories prior to the making of that affidavit.

4. By 4.00 pm on 17 April 2023:

(a) the applicant file and serve any reply to the respondents' defence to the statement of claim;

(b) the applicant and the respondents file any reply submissions.

5. Between 17 and 20 April the parties confer and endeavour to agree upon on a joint list of authorities with pinpoint references and point in time legislative provisions to be annexed to that list.

6. By 4.00 pm on 21 April 2023, one of the parties file and serve any agreed joint list of authorities with pinpoint references with agreed point in time legislative provisions annexed, or in the absence of agreement (which should not occur), separate lists of authorities with pinpoint references with agreed point in time legislative provisions annexed, noting that there is no need to furnish copies of any authorities in any form unless obscure.

7. By 4.00 pm on 27 April 2023, the respondent file and serve an affidavit deposing to any responses received in relation to notices under s 78B of the *Judiciary Act 1903* (Cth) that have been served, or alternatively to furnish such information by affidavit progressively prior to that date.

8. The matter be listed at 10.15 am on 28 April 2023 for the hearing of the interlocutory disputes the subject of the orders above, any dispute as to whether notices served under s 78B of the *Judiciary Act 1903* (Cth) involve a matter arising under the Constitution or involving its interpretation, and further case management.

9. Leave be granted for the applicant's legal representatives to appear on 28 April 2023 remotely via Microsoft Teams or other remote audio visual link.

10. The parties advise the associate to Justice Bromwich by email of any issues of non-compliance with these orders, or any other issues, as soon as reasonably practicable, including for approval of any resolution, solution or variation agreed upon, or for adjudication of any dispute that cannot be agreed upon, whether by way of adjudication on the papers or by listing for further case management, including by Microsoft Teams or other remote audio visual link.

11. Costs be reserved.

Date that entry is stamped: 3 March 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 31 March 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. The orders made on 1 March 2023 be varied as follows:

(a) Order 3(a) be varied to read:

By no later than 4.00 pm on 14 April 2023:

a) The applicant file and serve submissions and any affidavit evidence in response to:

i. the notice of objection to competency of the originating application; and

ii. any application for security for costs..

(b) Order 4 be varied to read:

By no later than 4.00 pm on 20 April 2023:

a) the applicant file and serve any reply to the respondents' defence to the statement of claim;

b) the applicant and the respondents file any reply submissions.

(c) Order 5 be varied to read:

By no later than 4.00 pm on 21 April 2023, the parties confer and endeavour to agree upon a joint list of authorities with pinpoint references and point in time legislative provisions to be annexed to that list.

(d) Order 6 be varied to read:

By no later than 10.00 am on 26 April 2023, one of the parties file and serve any agreed joint list of authorities with pinpoint references with agreed point in time legislative provisions annexed, or in the absence of agreement (which should not occur), separate lists of authorities with pinpoint references with agreed point in time legislative provisions annexed, noting that there is no need to furnish copies of any authorities in any form unless obscure.

Date that entry is stamped: 4 April 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and others named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 28 April 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Leave be granted to the applicant to file and serve an amended statement of claim in the form annexed to the applicant's submissions in response to the respondent's security for costs application.
2. By 4.00 pm on 5 May 2023, the respondents file and serve evidence on the topic of their refusal to participate in conciliation, together with any written submissions limited to 2 pages.
3. By 4.00 pm on 12 May 2023, the applicant file and serve any evidence in response and any submissions in response limited to 2 pages.
4. By 4.00 pm on 17 May 2023, the respondents file and serve any evidence in reply and any submissions in reply limited to 1 page.
5. Each party advise the other party and the associate to Justice Bromwich if they decide not to file any of the materials referred to above.
6. The proceeding be listed for a case management hearing at 9.00 am on Friday, 2 June 2023.

Date that entry is stamped: 1 May 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Second Respondent SALLY GROVER

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 01 June 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Pursuant to s 46PO(2) of the *Australian Human Rights Commission Act 1986* (Cth), the applicant be allowed until 22 December 2022 to make the originating application that was filed on that date.
2. The respondents' notice of objection to competency dated 15 February 2023 and filed 16 February 2023 be dismissed.
3. The applicant's interlocutory application dated 23 March 2023 and filed 24 March 2023 seeking a maximum costs order pursuant to r 40.51 of the *Federal Court Rules 2011* (Cth) be allowed in sum of $50,000, confined to the constitutional validity and statutory construction issues.
4. The respondents' interlocutory application dated 30 March 2023 and filed 31 March 2023 seeking an order pursuant to s 56 of the *Federal Court of Australia Act 1976* (Cth) and r 19.01 of the *Federal Court Rules* that the applicant provide security for costs and related relief be dismissed.
5. The respondents pay the applicant's costs of and incidental to the applications heard on 28 April 2023, including the post-hearing submissions, such costs to be assessed by a registrar on a lump sum basis unless agreed.

Date that entry is stamped: 1 June 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 16 June 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Leave be granted to the Sex Discrimination Commissioner to appear as amicus curiae pursuant to s 46PV of the *Australian Human Rights Commission Act 1986* (Cth).

2. Pursuant to section 37AF of the *Federal Court of Australia Act 1976* (Cth), the parties and the amicus curiae are prohibited from publishing or causing to be published any material (whether obtained through discovery or otherwise) that contains any personal information, other than the current legal name of any party, including identification numbers, addresses, phone numbers, and dates of birth upon the ground in s 37AG(1)(c) that the order is necessary to protect the safety of the applicant and the second respondent.

3. By 4:00 pm on Friday 30 June 2023, the respondents file and serve on the applicant and the amicus curiae any amended notices under s 78B of the *Judiciary Act 1903* (Cth) of any constitutional issue sought to be raised in the proceeding.

4. By 4:00 pm on Friday 7 July 2023, all such notices to be served on the all of the Attorneys-General of the Commonwealth, States and Territories.

5. By 4:00 pm on Friday 28 July 2023, the respondents file and serve an affidavit deposing to any responses received in relation to notices under s 78B of the *Judiciary Act 1903* (Cth) that have been served.

6. By 4:00 pm on Friday 11 August 2023, the Sex Discrimination Commissioner file and serve:
   a. any evidence by way of affidavit that it intends to rely on; and
   b. an outline of submissions dealing with:
      i. the constitutional validity of the amendments to the *Sex Discrimination Act 1984* (Cth) (**SDA**) made by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth).*
      ii. the construction, meaning and scope of provisions of the SDA dealing with discrimination on the grounds of sex and gender identity; and
      iii. the construction, meaning and scope of provisions of the SDA dealing with special measures.

   (**Constitutional and Construction Questions**)

7. By 4:00 pm on Friday 8 September 2023, the applicant file and serve the following material on which it intends to rely on:
   a. evidence by way of affidavits; and
   b. an outline of submissions dealing with:
      i. the Constitutional and Construction Questions; and
      ii. the substance of the application.

8. By 4:00 pm on Friday 6 October 2023, the respondents file and serve the following material by way of response:
   a. evidence by way of affidavits; and
   b. an outline of submissions dealing with:
      i. the Constitutional and Construction Questions; and
      ii. the substance of the application.

9. By 4:00 pm on Friday 20 October2023, the applicant file and serve any further affidavits of evidence and an outline of submissions it intends to rely on in reply.

10. By 4.00pm on Friday 3 November 2023, the parties make any request for discovery to each other.

11. By 4.00pm on Friday 24 November 2023, the parties respond to any request for discovery.

12. If the parties cannot agree on a protocol for discovery, any request to the Court for orders for discovery be filed and served by Friday 8 December 2023 and be heard and determined by a registrar.

13. By 4.00 pm on Friday, 22 March 2024, the applicant, after consultation with the respondents, file and serve a paginated court book comprising:
    a. a table of contents;
    b. the amended pleadings;
    c. all other material filed and served by the parties and the Sex Discrimination Commissioner;
    d. any other document to be relied upon by any party; and
    e. all orders issued by the Court.

14. By 4.00 pm on Thursday, 28 March 2024, the applicant, after consultation with the respondents, file and serve an agreed joint list of authorities with pinpoint references with agreed point in time legislative provisions annexed, noting that there is no need to furnish copies of any authorities in any form unless obscure.

15. The matter be listed for hearing on an estimate of 3 to 4 days on 9 April 2024.

16. The parties are at liberty to apply within 2 days' notice.

17. Costs be reserved.

Date that entry is stamped: 19 June 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 8 August 2023

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. Order 6(b) of the orders made by Justice Bromwich on 16 June 2023 be amended by adding a new subparagraph (iv) so that order 6 reads as follows:

> "By 4.00 pm on Friday 11 August 2023, the Sex Discrimination Commissioner file and serve:
>
> (a) any evidence by way of affidavit that it intends to rely on; and
>
> (b) an outline of submissions dealing with:
>
> i. the constitutional validity of the amendments to the *Sex Discrimination Act 1984* (Cth) (**SDA**) made by the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013* (Cth).
>
> ii. the construction, meaning and scope of provisions of the SDA dealing with discrimination on the grounds of sex and gender identity; and
>
> iii. the construction, meaning and scope of provisions of the SDA dealing with special measures.

iv. whether Part 4 of the *Births, Deaths and Marriages Registration Act 2003* (Qld) (**BDMRA**) and in particular s 24(1) of the BDMRA, alters, impairs or detracts from the operation of ss 5, 5B, 7B, 7D and 22 of the SDA in a manner impermissibly inconsistent with the SDA, and is thereby inoperative, by reason of s 109 of the Constitution.

(Constitutional and Construction Questions)"

Date that entry is stamped: 8 August 2023

Registrar

Schedule

No: NSD1148/2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Second Respondent SALLY GROVER

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 11 September 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Order 7 of the orders made by Justice Bromwich on 16 June 2023 (**Orders**) be amended to read:

   By 4:00 pm on Wednesday 13 September 2023, the applicant file and serve the following material on which she intends to rely:

   a. evidence by way of affidavits; and

   b. an outline of submissions dealing with:

      i. the Constitutional and Construction Questions; and

      ii. the substance of the application.

2. Order 8 of the Orders be amended to read:

   By 4:00 pm on Monday 16 October 2023, the respondents file and serve the following material by way of response:

   a. evidence by way of affidavits; and

   b. an outline of submissions dealing with:

      i. the Constitutional and Construction Questions; and

      ii. the substance of the application.

3. Order 9 of the Orders be amended to read:

   By 4:00 pm on Monday 30 October 2023, the applicant file and serve any further affidavits of evidence and an outline of submissions she intends to rely on in reply.

Date that entry is stamped: 11 September 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Second Respondent SALLY GROVER

Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 4 October 2023

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. Order 8 of the orders made by Justice Bromwich on 16 June 2023 (**Orders**), as amended by orders made by Justice Bromwich on 11 September 2023, be further amended to read:

   By 4:00 pm on Wednesday 18 October 2023, the respondents file and serve the following material by way of response:

   a. evidence by way of affidavits; and

   b. an outline of submissions dealing with:

      i. the Constitutional and Construction Questions; and

      ii. the substance of the application.

2. Order 9 of the Orders, as amended by orders made by Justice Bromwich on 11 September 2023, be further amended to read:

   By 4:00 pm on Wednesday 1 November 2023, the applicant file and serve any further affidavits of evidence and an outline of submissions she intends to rely on in reply.

3. Order 10 of the Orders be further amended to read:

   By 4.00 pm on Tuesday 7 November 2023, the parties make any request for discovery to each other.

4. Order 11 of the Orders be further amended to read:

   By 4.00 pm on Tuesday 28 November 2023, the parties respond to any request for discovery.

5. Order 12 of the Orders be further amended to read:

   If the parties cannot agree on a protocol for discovery, any request to the Court for orders for discovery be filed and served by Tuesday 12 December 2023 and be heard and determined by a registrar.

Date that entry is stamped: 4 October 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 18 October 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Order 8 of the orders of Justice Bromwich dated 16 June 2023 (Orders) be amended to read:

   "By 4.00 pm on Monday 23 October 2023, the respondents file and serve the following material by way of response:

   (a) evidence by way of affidavits; and

   (b) an outline of submissions dealing with:

   (i) the Constitutional and Construction Questions; and

   (ii) the substance of the application."

2. Order 9 of the Orders be amended to read:

   "By 4.00 pm on Monday 20 November 2023, the applicant file and serve any further affidavits of evidence and an outline of submissions it intends to rely on in reply."

3. Order 10 of the Orders be amended to read:

   "By 4.00 pm on Friday 24 November 2023, the parties make any request for discovery to each other."

4. Order 11 of the Orders be amended to read:

   "By 4.00 pm on Friday 1 December 2023, the parties respond to any request for discovery."

5. Order 12 of the Orders be amended to read:

"If the parties cannot agree on a protocol for discovery, any request to the Court for orders for discovery be filed and served by Thursday 25 January 2024, to be heard and determined by a registrar."

Date that entry is stamped: 31 October 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD 1148 of 2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE BROMWICH

DATE OF ORDER: 22 November 2023

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. Order 9 of the orders of Justice Bromwich dated 16 June 2023, as amended by the orders of Justice Bromwich dated 18 October 2023 (**Orders**) be amended to read:

   "By 4.00 pm on Monday 27 November 2023, the applicant file and serve any further affidavits of evidence and an outline of submissions it intends to rely on in reply."

2. Order 10 of the Orders be amended to read:

   "By 4.00 pm on Friday 1 December 2023, the parties make any request for discovery to each other."

3. Order 11 of the Orders be amended to read:

   "By 4.00 pm on Friday 8 December 2023, the parties respond to any request for discovery."

Date that entry is stamped: 24 November 2023

Registrar

Schedule

No: NSD 1148 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent SALLY GROVER

Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1148/2022

ROXANNE TICKLE
Applicant

GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 and another named in the schedule
Respondent

ORDER

REGISTRAR: REGISTRAR LEE

DATE OF ORDER: 14 February 2024

WHERE MADE: Sydney

THE COURT NOTES THAT:

1. There was no appearance by the parties and the Court makes no order.

Date that entry is stamped: 14 February 2024

Registrar

Subsection 35A (5) of the *Federal Court of Australia Act 1976* (the ***Act***) provides that a party to proceedings in which a Registrar has exercised any of the powers of the Court under subsection 35A (1) of the Act may, within the time prescribed by the Rules of Court, or within any further time allowed in accordance with the Rules of Court, apply to the Court to review that exercise of power.

Rule 3.11 provides that a party may apply to the Court under subsection 35A (5) of the Act for review of the exercise of a power of the Court by a Registrar and that any application must be made within 21 days after the day on which the power was exercised. A party seeking a review can apply to the Court to dispense with any requirement of the Rules (Rule1.34).

Schedule

No: NSD1148/2022

Federal Court of Australia
District Registry: New South Wales
Division: General

Second Respondent SALLY GROVER