

IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER

Case No. CA20210013

Courtroom No. 5

PO Box 9300
Leicester
LE1 8DJ

Tuesday, 13th September 2022

before

TRIBUNAL JUDGE GRIFFIN
& TRIBUNAL JUDGE NEVILLE

MERMAIDS

- v -

CHARITY COMMISSION
& LGB ALLIANCE

MR M GIBBON KC and MR T LOVEDAY appeared on behalf of the APPELLANT
MR I STEELE appeared on behalf of the FIRST RESPONDENT
MS K MONAGHAN KC and MS A REINDORF appeared on behalf of the SECOND
RESPONDENT

WHOLE HEARING

UNOFFICIAL TRANSCRIPT AGREED AS ACCURATE BY THE PARTIES

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1 **Case called.**

2 JUDGE GRIFFIN: Are there any preliminary matters this morning?

3 MR GIBBON: Madam, unless the tribunal has any?

4 JUDGE GRIFFIN: No, I think I will just check how we are on the link. Good morning,
5 everybody on the link. Hopefully, you can hear us this morning. If there are any
6 problems with that, please let the clerk know at your end. The rules, as I have
7 explained them before, still apply. Please remain silent throughout with your
8 cameras off and your microphones on mute. Any bad behaviour in this room or on
9 the link will be dealt with at the time that it happens. We have given permission to
10 live tweet but please respect the fact that that needs to be done appropriately. I think
11 that is all I need to say today. Is everything all right?

12 So, Mr Gibbon, I think it is over to you.

13 MR GIBBON: I am pleased to say Mr Nicolson is available this morning and I call
14 Mr Nicolson as my next witness.

15 JUDGE GRIFFIN: Thank you.

16 **WITNESS EVIDENCE OF MR JOHN NICOLSON MP**

17 Examination-in-Chief by MR GIBBON KC

18 Q. Good morning, Mr Nicolson.

19 A. Good morning.

20 Q. Have you got everything you need there, water, etc?

21 A. I do. Thank you.

22 Q. There are a series of bundles in front of you in the stowaway. If you can find one-

23 A. The stowaway being?

24 Q. The cardboard box right at the edge. There should be a bundle there which may say
25 volume one on the side; if it doesn't, you might have to check between them which
26 is volume one.

27 A. Oh, this one?

28 Q. Yes. Now, if I can ask you to turn within that to tab 23?

29 A. Yes.

30 Q. And can you see a statement there with your name on the front?

31 A. Yes, I can.

32 Q. And if you go through to the end of that statement, can I ask you to confirm that that
33 is your signature? Page 161 in the bundle.

34 A. Thank you, that's helpful. Yes, it is.

35 Q. Is that a statement you recognise?

1 A. Yes, it is.
2 Q. Is there anything about that you'd like to change or would you be happy to adopt that
3 as your evidence today?

4 A. I'm happy to adopt that.

5 Q. Thank you, Mr Nicolson. Unless the tribunal has anything further, I'll be passing
6 you to my friend, Ms Monaghan, to ask questions.

7 Cross-Examination by MS MONAGHAN KC

8 Q. Good morning, Mr Nicolson.

9 A. Good morning.

10 Q. Just before we – ah, yes, excuse me. Madam, the witness has an iPad before him,
11 which may just be checking the bundles and also documents. Ordinarily, one
12 wouldn't have notes and so on; it's a matter for you but I have been asked to draw it
13 to your attention.

14 A. Yes, perhaps I could say that the documents are the court's documents on which I've
15 made some notes, nothing else; and the iPad is not connected apart from some notes
16 that I would like to refer to in the course of my evidence.

17 JUDGE GRIFFIN: Are they notes that you made about facts or are they-

18 A. Yes, they are. They're photographs of tweets and other matters that I feel may be
19 relevant to this.

20 JUDGE GRIFFIN: Are they matters that are included in your witness statement?

21 A. Yes, they are.

22 JUDGE GRIFFIN: Right. Could you just put them to the side for the moment? If, at any
23 stage, you feel that you need to look at them, we will come back to it then but I am
24 sure you will be taken to any relevant documents that Ms Monaghan wants to ask
25 you some questions about.

26 MS MONAGHAN: I think, perhaps, madam refers to – perhaps, you are referring to the
27 manuscript notes as well?

28 JUDGE GRIFFIN: Yes, everything.

29 MS MONAGHAN: And the annotated documents. Perhaps, if you wouldn't mind just
30 putting those aside, Mr Nicolson. Thank you. Just to, please, identify who you are;
31 as I understand it, you are a Member of Parliament-

32 A. Yes.

33 Q. And a member for the Scottish National Party?

34 A. Yes, I am.

35 Q. And you have been a Member of Parliament, I think, for some time?

1 A. Yes, I have.

2 Q. Perhaps, you could just tell us how long?

3 A. I was first elected in 2015.

4 Q. Okay. And you've given evidence in your witness statement about the activities of
5 LGB Alliance?

6 A. Yes.

7 Q. And one of the concerns you've expressed is about the activities of LGB Alliance
8 around reform of the Gender Recognition Act, as is proposed in Scotland?

9 A. Yes.

10 Q. So, I am going to start by looking at those reforms. You refer to them in your witness
11 statement. So, we can see where we are, we can contextualise LGB Alliance's
12 activities around that, okay? So, could we start, then, please, by turning up 1219 –
13 1219 – which is in volume 2.2. So, it will be in one of those files, hopefully, marked.
14 I beg your pardon, it's volume 2.2.

15 JUDGE NEVILLE: It might be useful if, during a break, someone wrote the page ranges on
16 the spines of the ring binders.

17 A. This is volume 2.2.

18 Q. It is. If you could keep that open. Yes, sir, we will try to do that. So, 2.2, page 1219.
19 1219, do you have that?

20 A. Yes, I do.

21 Q. You will at the bottom of the page, it's actually an annex to the consultation paper
22 on the proposed reforms but if we look over the page, we can see the contents of the
23 bill.

24 A. Is that after "Self ID gives predators the green light"?

25 Q. That's right, and don't worry, I'll be coming back to that, in due course.

26 A. Good.

27 Q. But 1220, we see the contents of the bill.

28 A. Yes.

29 Q. And this applies to Scotland only, as I understand it.

30 A. Yes.

31 Q. And, just in broad terms, what it proposes to do is relax the conditions of a grant of
32 a gender recognition certificate?

33 A. Yes.

34 Q. And it proposes to do so by amending the Gender Recognition Act, yes?

35 A. That's correct.

1 Q. And the purpose of the Gender Recognition Act is to permit a person on proof of
2 certain conditions to obtain what's called a gender recognition certificate, yes?

3 A. Mm-hmm.

4 Q. And a gender recognition certificate changes for all purposes – save there is a
5 provision in another Act to that – for all purposes, otherwise, a person's sex?

6 A. Yes.

7 Q. So, you get a gender recognition certificate if you were a male, you are recorded as
8 a female.

9 A. If you were born a male and then, become – change your gender.

10 Q. That's right.

11 A. Or, indeed, if you're female and want to change your gender to become male.

12 Q. Of course. It applies both ways.

13 A. Yes.

14 Q. And, the conditions currently – so, we'll move onto the bill; we'll have that open so
15 we can do a comparison – the conditions currently for the grant of a gender
16 recognition certificate, firstly, the person – the applicant has gender dysphoria, yes?

17 A. Well, they believe that they were born in the wrong body, yes.

18 Q. Yes, you will have looked presumably, at the Gender Recognition Act in its
19 unamended form before making observations about the amendments?

20 A. Yes, I've read the reformed Act and I've read the relevant submissions.

21 Q. And you will have read the original enactment so, you can identify the significance
22 or otherwise of the proposed amendments?

23 A. Yes.

24 Q. And just looking at then – it's not in here but you will know it very well, I'm sure,
25 the conditions for the grant of a gender recognition certificate presently require a
26 diagnosis of gender dysphoria, is that right?

27 A. Mm-hmm.

28 Q. And it requires that the person, the applicant, has lived in their acquired gender
29 throughout the period of two years; do you remember that?

30 A. Indeed, accessing spaces in their acquired gender which they are able to do under the
31 current legislation.

32 Q. Well, we'll come to that. For a period of two years, they intend to live in their
33 acquired gender until death, yes? And they must have, in support of their application,
34 a report from two medical practitioners, yes? One of whom is a specialist in the field
35 of gender dysphoria, yes?

1 A. Mm-hmm.

2 Q. And both those reports must provide a diagnosis of gender dysphoria in respect of-

3 JUDGE NEVILLE: Sorry, just pause for a moment.

4 JUDGE GRIFFIN: Could everybody on the link please turn off their cameras? Could the

5 clerk on the link please assist? Thank you very much. Sorry to interrupt.

6 MS MONAGHAN: It's okay. Of those specialist reports, both of them must include details

7 of a diagnosis of the applicant's gender dysphoria, remember that?

8 A. Mm-hmm.

9 Q. And where the applicant has undergone or is undergoing treatment for the purpose

10 of modifying their sexual characteristics then, that must be explained as well or set

11 out in the medical reports, yes?

12 A. Yes, indeed, it's very intrusive.

13 Q. It requires a diagnosis of gender dysphoria and medical evidence establishing that

14 and then, there must be a statutory declaration from the application confirming that

15 they have lived in their required gender for the period of two years, yes? And you

16 will then know that that material, including the medical evidence, goes before an

17 independent gender recognition panel; are you aware of that?

18 A. Mm-hmm.

19 Q. And that panel has to determine, on the basis of those objective criteria, whether the

20 conditions are met, having regard to the evidence and it will comprise – that is the

21 panel – one legally qualified member and one registered medical practitioner and

22 psychologist, yes?

23 A. Yes.

24 Q. So, fairly stringent requirements. Now, let's have a look at the amendments

25 proposed. If we can look, please, at the first substantive part of the bill at page 1221;

26 we can see it introduces on 221, proposes to introduce – and we're looking at clause

27 8(a) – the clause just after – sorry, forgive me, clause two which inserts or proposes

28 to insert a new Section 8(a) – do you see that?

29 A. Yes.

30 Q. “A person of either gender” – I assume that means sex – “may apply to the Registrar

31 General for Scotland for a gender recognition certificate on the basis of living in the

32 other gender if they, at least, 16” – it's presently 18, isn't it?

33 A. Yes.

34 Q. It's now proposed that it will go down to 16?

35 A. The age of – you can vote in Scotland at the age of 16 so, I think that's probably the

1 motivation for that.

2 Q. And this proposes that a child can change their sex so long as they have reached the
3 age of 16?

4 A. Yes, the use of the word “child”, of course, is emotive. As I’ve just pointed out, you
5 have adult responsibilities in Scotland at the age of 16; you are allowed to vote.

6 Q. It’s not an emotive term, is it, Mr Nicolson? It’s a term in law, including international
7 law. A person under the age of 18 is a child.

8 A. In Scotland, of course, the age of consent is 16 and you are allowed to vote at the age
9 of 16. You can join the Army at the age of 16. So, these are, obviously, not
10 responsibilities that are normally assigned to a child so, can we, perhaps, agree
11 “young adult”?

12 Q. Well, I’ll use the term “child” and you can use-

13 A. And I’ll use the term I want to use, which is “young adult”.

14 Q. You use the term that you are most comfortable with-

15 A. Yes.

16 Q. S, 16 is-

17 A. But you would accept that children don’t get to vote?

18 Q. Firstly, I am not here to answer your questions, thankfully. I-

19 A. It seems to me unusual that a child is given the opportunity to vote; that’s an adult
20 responsibility.

21 Q. If we can look, then, further through the proposed new Section 8(a) – reduces the age
22 to 16 and then, sub-section – proposed sub-section two, that they are in the Scottish
23 Birth Registry entry – so, they’ve been born in Scotland. So, they’re aged 16 and
24 born in Scotland, yes?

25 A. Yes.

26 Q. And the rest of that provision doesn’t matter to us; it explains the register.

27 A. I believe if they have moved to – or have moved to Scotland, I believe that’s included
28 as well.

29 Q. And then, at 8(b), we have the notice that’s to be given by the Registrar General by
30 way of the application-

31 A. Yes.

32 Q. - and it’s better to turn over the page, if you don’t mind, because the whole of the
33 provision is there, rather than it being cut off and we see what must be provided for
34 the purposes of an application for GRC – gender recognition certificate.

35 A. Yes.

1 Q. Well, firstly, in fact, what happens on receipt of the application – we’ll come to
2 what’s in it – on receipt of the application, that is under 8(a)(i) – under 16 – over 16,
3 born in Scotland, the Registrar General must notify the applicant that the application
4 has been received. That the reflection period has begun. The date on which that
5 period ends; whether or not a full gender recognition certificate or an interim one
6 would be granted in the event that it was decided to grant one at all. Now, the
7 reflection period, I think, is a period of three months, have I got that right?

8 A. I believe so.

9 Q. So, once the application is received, there’s a three-month reflection period,
10 presumably to allow the applicant to change their mind or to think about it, is that
11 right?

12 A. Mm-hmm.

13 Q. And, I don't think we need to trouble ourselves with the distinction between a full
14 certificate and an interim certificate. I think that’s concerned with those applicants
15 who are married or are in civil partnerships, is that right?

16 A. I believe so.

17 Q. There are special provisions concerning notification of the spouse and so on. We can
18 park that. We don’t need to trouble ourselves. Then, 8(c) tells us when an application
19 for a GRC must be granted – in other words, what’s in the application.

20 A. Yes-

21 Q. There must be a statutory declaration that the applicant is 16, at least.

22 A. Mm-hmm.

23 Q. Meets the condition in Section 8(a)(ii) – that’s being born in Scotland; has lived in
24 the acquired gender for three months before the application and intends to live in that
25 gender permanently, yes?

26 A. Yes.

27 Q. I think that’s it, isn’t it?

28 A. Mm-hmm.

29 Q. Prepare a declaration saying you are over 16, you have been born in Scotland and
30 you have lived in your proposed gender – required gender for three months and you
31 intend to do so permanently. That is a fundamental change, isn’t it?

32 A. Well, the idea is to make it less intrusive than it currently is so, yes, it is to – it is to
33 make it less intrusive for somebody to change their gender.

34 Q. Well, it’s a fundamental change; no gender recognition panel to determine whether
35 or not the conditions are met; no diagnosis of gender dysphoria; no need to live in

1 your acquired gender for two years; a very significant shift indeed.

2 A. And, as the tribunal will know, one that has been enacted in various other
3 jurisdictions.

4 Q. And it's highly controversial, isn't it?

5 A. It is for people who oppose it which is, of course, why you are here but as you will
6 know – as the tribunal will know, all the evidence suggests that it enjoys majority
7 support. The Scottish government, as you will know – as the tribunal will know, I'm
8 not a Member of the Scottish Parliament; I'm a Member of the Westminster
9 Parliament but the Scottish government has run on a commitment to enact this and
10 will enact it in coalition with the Green Party. It's worth noting, on a political point,
11 that the party which tried to weaponise this as an issue at the last election, the Alba
12 Party, which made this very significant part of its election campaign, won only 0.6%
13 of the popular vote. So, you say it's – you made the point that it's controversial. I
14 think, obviously, anything can be controversial when it comes to legislative change-

15 Q. Well, that was-

16 A. This is the – the opponents of the gender recognition reform do not enjoy majority
17 support.

18 Q. There's nothing wrong, as you've indicated, with it being controversial. We live in
19 a democracy and people can take different views about things.

20 A. Providing that they always behave properly in advancing their case and providing
21 they treat opponents with respect which, I think, gets to the nub of this – the nub of
22 this case.

23 Q. Just pause there so we can answer the questions and then, we can move on. It's
24 unsurprising in a democracy that there will be differences in view about legislative
25 proposals?

26 A. That is true indeed.

27 Q. And, indeed, within your own party, there are differences in view about whether or
28 not this legislation or this proposed legislation should be enacted-

29 A. Well, again, it's interesting that you say that because I'm the vice-chair of the LGBT
30 group in Parliament which is an all-party group for LGBT parliamentarians and my
31 own party, the Scottish National Party, has the highest percentage of LGBT Members
32 of Parliament of any party. There is only one member of the group – LGBT member
33 of the group, who is opposed to Gender Recognition Act reform. The rest, lesbians
34 and gay men, all support this. It has overwhelming majority support amongst lesbian
35 and gay Members of Parliament in my party.

1 So, yes, there are opponents, of course, but they are in the minority.

2 Q. And one of them is Joanna Cherry?

3 A. Indeed.

4 Q. And I use Joanna Cherry only because she is a high-profile opponent of the bill. She
5 is presently, I think, chair of the Joint Parliamentary Committee on Human Rights?

6 A. I believe so.

7 Q. Yes. And she's not the only one, of course, within your party that regards this as
8 controversial?

9 A. The only MP.

10 Q. And one of the reasons that it's regarded as controversial or, indeed, a key reason
11 why it's regarded as controversial is because it makes it so easy to change one's sex,
12 yes? For legal purposes?

13 A. No. Nobody would – nobody would decide who changed their-

14 Q. Just pause there-

15 A. - nobody would – no, let me-

16 Q. - no, I-

17 A. - you asked me a question so, let me finish. Nobody who decides to change their
18 gender would regard it as easy. It's clearly not easy. It's a deeply traumatic-

19 Q. One of the reasons – just pause there – we could be here for a very, very long time,
20 Mr Nicolson, unless you focus on the questions I'm asking you-

21 A. I am focused.

22 Q. - and answering the questions that I'm asking you. The tribunal have your witness
23 statement and, no doubt, you've set out in your witness statement everything you are
24 keen for the tribunal to know. The purpose of this exercise is for me to ask questions
25 on behalf of lesbian and – LGB Alliance. Let's focus on the questions and answer
26 them. One of the reasons – the key reason – that it's regarded as controversial is
27 because it shifts – reduces significantly – the conditions for the achieving of a gender
28 recognition certificate, yes?

29 A. You believe it to be controversial and I'm saying and I'm entitled to express myself
30 in my own words; it is my belief that it is very much a minority position – the one
31 that you are advocating – as I've explained, the majority of LGBT Members of
32 Parliament with the exception of one Member of Parliament, do not support the case
33 that you are advocating but support the Scottish Government.

34 Q. I'm not advocating a case at all, Mr Nicolson-

35 A. Those you are advocating on behalf of.

1 Q. - I am not advocating a case. I am asking you questions. So, let's try not to get into
2 an exchange. Let's focus on me asking you the questions and you answering, yes?
3 It's a model that is usually called "Self ID" or "Self-Declaration", is that right?
4 A. Yes.
5 Q. And one of the concerns, as I've indicated, is, it sets the threshold for the changing
6 of one's legal sex much lower than it presently is, yes?
7 A. Again, I think the word "lower" is emotive. It's less intrusive than the previous
8 legislation.
9 Q. And you will know that one of the concerns about that is that once the conditions for
10 a change in sex become much more relaxed, then, it raises the question whether sex
11 matters at all; do you understand that?
12 A. I understand that's your position of your clients; it's not one that I would agree with.
13 Q. And once the conditions are relaxed, to the extent that it can be said that sex doesn't
14 matter much, then, it risks eating away at sex-based rights like single sex services;
15 you understand that's the concern?
16 A. I've read on Twitter that that is their concern, yes.
17 Q. And the reason for that is because under the Equality Act – you will know – we are
18 not going to agree on the law but you needn't trouble yourself with that – under the
19 Equality Act, while there is provision for single sex services, where a person has a
20 gender recognition certificate, they can only be excluded from a single sex service
21 matching that identified on their gender recognition certificate if it's a proportionate
22 means of achieving a legitimate aim, yes?
23 A. Yes, for instance, we know that under the proposed legislation, that in certain
24 circumstances, women's refuges, for example, sports, for example, there is an option
25 to exclude – exclude trans people from those, yes.
26 Q. And where they have a gender recognition certificate, they can only be excluded
27 where your small refuge or tiny group – a rape counselling service can establish that
28 it's a proportionate means of achieving a legitimate aim. You understand that, don't
29 you?
30 A. I do and I was interested as well in the Women's Rape Crisis in Scotland which, as
31 you know, support this reform, having considered the amendments very carefully so,
32 they don't share the concerns expressed by your clients and, after all, Rape Crisis,
33 surely are the experts in this field.
34 Q. And when a person does not have a gender recognition certificate, they can be
35 excluded from a single sex service – that is the opposite sex to theirs; whether or not

1 it's a proportionate means of achieving a legitimate aim; do you understand that?

2 A. I understand the argument you're putting, yes.

3 Q. Well, you understand that that's the legal position, don't you?

4 A. It's – it's perfectly clear that, under the proposed legislation which will go through
5 the Scottish Parliament, regardless of the outcome of this case, that people who are
6 trans can be excluded, under certain circumstances – those that I've already outlined.

7 Q. And just to bottom this out – just one more question, I hope; where a person who is
8 born male does not have a gender recognition certificate, then, they can be excluded
9 from a female only service without one?

10 A. That's my understanding.

11 Q. So, getting a gender recognition certificate is quite an important thing, isn't it?

12 A. Yes, and I think it's an important thing for people who have been born in – or, believe
13 they have been born in the wrong body. I think it gives them a sense of worth and
14 dignity and that is why it is such a progressive piece of legislation.

15 Q. And you think there's such a thing, do you, as being born into the wrong body?

16 A. I'm blessed by not having ever had that feeling. I cannot imagine how terrible it must
17 be to feel that you're born into the wrong body. I think it must be intolerable and
18 what this legislation does is, seek to be kind and seek to try and address what must
19 be incredibly distressing but also, I think it is enormously presumptuous of anybody
20 who has not lived that life experience to try and tell people what they are or aren't
21 and I think it's one of the most offensive things in the LGB Alliance's submission
22 that they say they do not believe that you can be born in the wrong body; rather, like
23 people in the 1980s who said that they do not believe that you can be same sex
24 attracted.

25 Q. Well, perhaps – I was going to take Mermaids to this; I'll reflect on that. Perhaps,
26 I'll have to take you to what Mermaids say and the Department of Education say
27 about the being born in the wrong body narrative but, perhaps, won't; we've heard
28 what you've said.

29 A. Narrative?

30 Q. Yes.

31 A. It's not a narrative; it's experience.

32 Q. And the other reason that the ease with which it will become – if this bill is passed
33 or this bill is passed in its current form – the other reason LGB Alliance has concerns
34 about it is because it may undermine their status as lesbian and gay men and bisexual
35 people because they are people who are same sex attracted or attracted to members

1 of both sexes, yes?

2 A. I'm a gay man; enhancing somebody else's rights does not in any way diminish my
3 own rights.

4 Q. I asked you a question; does that mean you accept that that is their concern, that as
5 their sexual orientation – sex-based, same sex orientation – once the importance of
6 sex is diminished, because one can change it through self-declaration then, it may
7 undermine their experiences and diminish their space in the world as same sex
8 sexually orientated?

9 A. It's certainly true the LGB Alliance has expressed all sorts of extreme views.
10 They've said, for instance, that their opponents are paedophiles or rape enablers, so,
11 they've said a variety of extreme-

12 Q. Well, pause there-

13 A. - of extreme things.

14 Q. I don't think we have a single piece of evidence in this tribunal that would suggest
15 that LGB Alliance have said any such thing.

16 A. Well, you know that not to be the case since they have tweeted offensive tweets about
17 me containing some of this very deeply offensive stuff. My crime, in their eyes, has
18 simply been to embrace the Scottish Government's position that's shared by the
19 majority of women and men in Scotland.

20 Q. Well, we'll come and see what you say about them and they say about you in one
21 moment. Come first, though, to their campaigning materials because you complain
22 about their campaigning materials and use it, I think, as an illustration of what you
23 say is their aggressive activism around the proposed bill – proposed amendments,
24 yes?

25 A. Mm-hmm.

26 Q. So, you will remember saying that in your witness statement, won't you?

27 A. Yes.

28 Q. So, I'm going to come to the particular set of campaigning material now. Volume 2.2
29 – I'm going to ask you a preliminary question; you will accept, won't you, that civil
30 society, members of the public are entitled to campaign, lobby, undertake other acts
31 of support or opposition to new legislative change, yes?

32 A. One of the beauties of living in a democracy that we are entitled to free speech, within
33 limits, obviously, no matter how offensive that free speech is. As a gay man, I
34 remember some of the awful stuff during the Clause 28 and Clause 20 repeal that I
35 had to look at every day. So, the folk who posted some of these horrific posters in

1 Scotland were entitled by law to do what they did; it didn't make it any less offensive.

2 Q. I assume the answer to that question was yes. Members of the public and civil society
3 are entitled in a democracy to engage in activism about proposed legislative reform?

4 A. That goes without saying-

5 Q. Well, perhaps-

6 A. - and those of us who oppose it are entitled to do so and highlight when untruthful or
7 extreme things are being said.

8 Q. So, let's look at, please, page 1206. I think it's in the next or, perhaps, you have the
9 right bundle in front of you, yes. Yes?

10 A. Yes.

11 Q. That's pause – "Press Pause"-

12 A. Yes.

13 Q. And I think you refer to that document, in particular, in your witness statement, yes?

14 A. Yes. I think, in particular, I highlight, I think, page 1218.

15 Q. Just pause there. One-two?

16 A. Page one-two-one-eight.

17 Q. Ah, no, that's – I'll come to that in one moment. I'm looking at Press Pause which
18 is the document that you refer to in your witness statement at paragraph 10, page 151
19 – if you'd like to remind yourself. Your witness statement is there.

20 A. Paragraph?

21 JUDGE GRIFFIN: 10.

22 Q. At paragraph 10, page 151. You've introduced this section of your – the purpose of
23 this section of your witness statement, at paragraph seven.

24 A. Yes.

25 Q. Do you see that?

26 A. Yes.

27 Q. And you are referring to the aggressive activism, as you describe it-

28 A. Yes.

29 Q. - of LGB Alliance and you refer, at paragraph 10, to Press Pause.

30 A. Yes.

31 Q. And I'm asking you to look at Press Pause at page 1206.

32 A. Yes.

33 Q. Perhaps, I ought to check; you did look at this document, did you, before making
34 your witness statement?

35 A. Yes, I did.

1 Q. So, let's just briefly go through it, if we may; it's a response to a consultation exercise
2 on the bill, yes?

3 A. Yes.

4 Q. And the consultation exercise was designed to elicit responses to determine whether
5 or not there was support, opposition or whether anything else could be learned-

6 A. Yes-

7 Q. - about what might be these reforms, yes?

8 A. Yes.

9 Q. If you need to refresh your memory, do take a moment, because you seem to be
10 distracting yourself.

11 A. No, I'm reading my notes in the same way that you are reading your notes. It's useful
12 to us both, I'm sure.

13 Q. If you need to take a moment, you just take a moment.

14 A. You're very kind but I'm fine. Please continue.

15 Q. Well, I want to take you through it because I want you to explain to us where it is
16 that you say LGB Alliance are aggressive. Now, just listen to the questions. If it is
17 necessary, you will be given the opportunity to say anything else you would like but
18 listen to the questions, focus on them and answer them, please, Mr Nicolson, okay?

19 A. Yes. LGB Alliance have a complete package. Their package is online; their package
20 is consultations and newspaper advertisements. You cannot isolate one part of the
21 LGB Alliance's activities and distract yourself from all the others-

22 Q. Just pause there, Mr Nicolson. You have referred to this document in your witness
23 statement and I am asking you questions about it.

24 A. Well, let me give you a prime example. For example-

25 Q. No, no, pause-

26 A. - do you want an answer or not?

27 Q. No, I-

28 JUDGE GRIFFIN: Mr Nicolson, Ms Monaghan, it is important that you do listen to the
29 question, Mr Nicolson. Mr Gibbon and Mr Loveday are listening carefully. They
30 will, no doubt, object to any inappropriate questions and we will deal with that
31 application if it comes. I have no doubt that they are making a note about anything
32 that they would wish to re-examine you upon, in due course. I think the scope of Ms
33 Monaghan's questioning, at the moment, is to ask you to look at the document that
34 starts on page 1206. I believe she was asking you to identify something within that
35 document. She will correct me if I am wrong. If you could focus on that question at

1 the moment, please.

2 MS MONAGHAN: That's right. I'm just-

3 MR GIBBON: Madam, apologies. Just in the context of the statement about intervening,
4 I'm trying very hard not to intervene in the normal way. Counsel don't seek to
5 intervene unless absolutely necessary but I would say, in fairness to Mr Nicolson,
6 that he should be allowed to answer the questions in his own way unless the tribunal
7 considers that that's not being helpful. I don't want to say anything further than that
8 at the moment.

9 JUDGE GRIFFIN: What we need is an answer to the questions and, obviously, we can
10 intervene if we think we are not getting that. Thank you.

11 Q. So, let's do what we can, please, to focus on the questions and answer them so that
12 we can move on. Just to remind ourselves, I'm referring to this document. That's
13 the one you've referred to in the witness statement, okay? Okay? I can raise my
14 voice, sorry; it's the microphone. So, the foreword just explains that it's a response
15 to a consultation and it sets out a simple guide. So, helping those who might want to
16 respond, yes? And, over the page – so, 1207 – it explains that, only by rejecting the
17 bill can we go on as a country to discuss the issues behind it properly and respectfully,
18 and that's the point of the Press Pause title, isn't it? They are saying, "Stop now.
19 Let's have a discussion, properly and respectfully, about the bill that, if enacted, is
20 going to make fundamental changes to the gender recognition process, yes?"

21 A. Yes.

22 Q. Perfectly reasonable. Yes?

23 A. No, I don't think it's reasonable.

24 Q. Let me put it differently. I need to put it more clearly. Expressing that view is
25 entirely reasonable; in a democratic society, one is entitled to say, "This bill is getting
26 through a bit too quickly; there is more work for us to do to understand what the
27 impact might be"-

28 A. They are entitled to do that but, of course, in answer to your question, some of the
29 things that they say in this are deliberately false, I think. So, for example, the very –
30 the very dramatic and disturbing paragraph headed "Danger to Children", for
31 example, again, reminiscent of the Clause 28 campaign, is entirely false.

32 Q. Well, I'm going to come to-

33 A. The opening line is, "The bill is also a danger to children" – I'm giving an example-

34 Q. Well, I'm going to come to that in one moment. If we follow the course that I'm
35 taking, you'll have the opportunity to say things about that or, at least, you'll have

1 the opportunity to answer my questions about those matters, okay? So, let's start
2 where we were – 1207. Fifth substantive paragraph – 1207 – just next to this side
3 note title; do you see that?

4 A. Mm-hmm.

5 Q. And LGB Alliance say, “Even if you have strong feelings, please don't be rude.
6 Harsh comments may lead to your submission being rejected. We believe in
7 respectful, polite debate. We have no argument with transsexuals or trans people.
8 Many support our argument and oppose this badly-constructed and risky bill”.
9 Nothing problematic there, is there, Mr Nicolson?

10 A. Except it's so very LGB Alliance isn't it, because it's a kind of coy pseudo respectful
11 statement which runs very much counter to the way that they campaign.

12 Q. So, the fact that they tell those who might be responding or caution them to be polite
13 and respectful, carries with it a hidden message? What are we to make of that
14 answer?

15 A. No, I'm not saying it carries a hidden message. I'm saying that it runs counter to
16 much of their campaigning but, as they point out, it's not in their interests for their
17 supporters' comments to be disregarded. They say, “Harsh comments may lead to
18 your submission being rejected”, so, of course, they're discouraging people – their
19 supporters from saying things that would have their comments rejected. You would
20 understand why they would caution that.

21 Q. And it's not aggressive, is it?

22 A. Well, it's the opposite of aggressive in this context because they don't want their
23 supporters' submissions to be rejected.

24 Q. And over the page, page 1208, the current position is set out – summarised, yes? Do
25 you see that?

26 A. Mm-hmm.

27 Q. So, nothing, just neutral – no problem there, yes?

28 A. Well, of course, it's not – it's not neutral, as you say. It says, for example, people
29 often change their minds. Well, of course, we know in life, people do often change
30 their minds but it implies that people change their gender on a whim because they've
31 just suddenly changed their mind about changing their gender and they feel like
32 changing their gender on a Monday and they don't feel like changing their gender on
33 Tuesday. Everybody knows that is not people's lived life experience. But it's clearly
34 aimed at people who have not lived this life and imagine that people are just being
35 whimsical in their decision to change gender.

- 1 Q. And the next paragraph makes the observations that it would become much easier
2 and, indeed, automatic – essentially, automatic; that's right, isn't it?
- 3 A. Well, again, you've asked me about this before; I don't believe that it's easy to change
4 your gender. I think it's a traumatic thing to do and, of course, it would be a criminal
5 offence to change your gender for deceptive – for other purposes.
- 6 Q. And, assessing risks, access risks – forgive me – access risks – that was the discussion
7 we just had about single sex services; that without a gender recognition certificate,
8 it's much harder – indeed, it's – a person would be excluded from a single sex service
9 that doesn't match their sex; if you have a gender recognition certificate, you can
10 access that space so long as it's – unless it's a proportionate means of achieving a
11 legitimate aim; we've already had that discussion, haven't we?
- 12 A. Yes, but, specifically, in this, it says, “access risks; without monitoring, what is to
13 stop any man saying he is a woman?” I mean, that is dog-whistling. This is implying
14 that trans people would, in some way, be abusive if they were allowed to gain a
15 gender recognition certificate more easily, he could then gain access – using “he”, of
16 course, rather than “she” – he could then gain access to women's spaces like changing
17 rooms and women only events. Well, at the moment, as you will know, people's
18 gender is not checked when they use various women's only spaces. That is currently
19 the way society operates. I don't know any woman, in my experience, who, when
20 she uses a women's lavatory is asked for evidence that she's a woman.
- 21 Q. And you use the example of a female only service, when you just gave that answer,
22 didn't you? A women's service?
- 23 A. Yes.
- 24 Q. And you will know that it's of most particular concern, these changes, to women
25 because men pose a greater risk to women than women pose to men, that's right, isn't
26 it?
- 27 A. Well, obviously, men are – we know from society, at the moment, that the vast
28 majority of sexual abuse that gets carried out – it's carried out by cis men against cis
29 women and we know that it's typically in relationships; we know that it's typically
30 amongst family members; we know this already.
- 31 Q. And the next piece that I'd like to take you to – or, the next section – so far, there's
32 nothing problematic, is there? So far, there's no aggressiveness, it's all-
- 33 A. No, but on – on – what I-
- 34 Q. - all written in neutral terms.
- 35 A. These are two different things but as I've outlined at each paragraph that you've run

1 through with me, there are problems with each of them and I've explained what I see
2 the problems as being.

3 Q. You don't agree with it and that is entirely proper; in a democracy, you, most
4 particularly as a Member of Parliament are entitled to promote legislation, support it
5 and agree with it, yes? Others are entitled to oppose it, yes?

6 A. We've not disagreed on this; I've already accepted that but you've asked me to accept
7 that each of these paragraphs is non-problematic and I'm disagreeing with that. I
8 think there are problems with each of these and I've outlined what they are.

9 Q. Let's look at the next section then, "Danger to Children" – do you see that?

10 A. Yes, I'm keen to come to that one.

11 Q. Yes, and the reason that LGB Alliance has a concern about the impact of reducing
12 the threshold for a gender recognition certificate is that very many more children are
13 identifying as trans now. You recognise that? Do you know that?

14 A. I do know that, yes.

15 Q. Yes. So, there is a real risk they find themselves on a pathway to changing their legal
16 sex, getting a gender recognition certificate at 16, when there are concerns about what
17 lies behind that rise, yes? Do you understand the concern, first of all?

18 A. I – I – I'm aware that people have expressed that concern but equally, there are vastly
19 more children identifying as lesbian or gay than there were when I was at school or
20 when you were at school and that's because society has changed. We have, at least
21 up until recent times, become much more liberal and people feel more able to express
22 who they are. So, I'm not surprised that more children feel able to talk about their
23 inner feelings in a way that they couldn't 20 or 30 years ago.

24 Q. And it's not unreasonable, is it, for a body/person – an individual or an organisation
25 – to be concerned about the rapid increase in the number of children who are
26 identifying as trans at GIDS, particularly – at clinical services – not unreasonable to
27 be concerned about that?

28 A. Well, it depends on their motivation, doesn't it, whether it's reasonable or
29 unreasonable? We know very well that lots of politicians are very concerned with
30 the increased visibility of homosexuals as well. I find that all the time, as a Member
31 of Parliament. Liberal people say, "Where do all these gays and lesbians come from?
32 There didn't used to be as many as there are now. They are encouraging young
33 children to become lesbian or gay because they're making it seem like an acceptable
34 lifestyle". So, I'm aware that there are bad paid actors in this as well, of course, as
35 people who, I'm sure, are motivated by what they think are good thoughts.

1 Q. You know what GIDS is, don't you – Gender Identity Clinic or, perhaps, you don't.
2 Do you know about the Cass report?

3 A. I do know about the Cass report.

4 Q. Right, the Cass report – Cass review, followed by an interim report, was a report into
5 the Tavistock GIDS clinic.

6 A. Yes.

7 Q. You know that?

8 A. I do, yes.

9 Q. And the GIDS clinic is presently – soon to be not – but presently the only clinical
10 service for children identifying as trans, who acquire medical and therapeutic
11 intervention, yes? And do you accept that there has been, in a fairly short period – I
12 think since about 2015 – a 4000% rise in the number of children – girls, in particular
13 – being referred to the service.

14 A. Yes, but you're taking about – you're using a percentage which, of course, makes it
15 seem very dramatic but the numbers concerned are really rather small in terms of
16 overall society. So, while 4000% - I appreciate why you would use that figure –
17 sounds dramatic, in terms of the numbers, we're not talking about a large number.
18 There are thousands percent increases as well in the number of people identifying as
19 gay or lesbian over the situation as would have applied when I was a child in the
20 1970s.

21 Q. It's, at least, not problematic to want to explore the reasons behind that?

22 A. It's very important, in all aspects of society, to try and understand trends in society;
23 to explore it and, above all else, to be motivated by kindness.

24 Q. And that may involve an exploration that would justify a pause on the legislation
25 being enacted. Would that be fair?

26 A. Well, I don't think that's what the LGB Alliance campaign for. In Scotland, there
27 have been a number of pauses on this, as you'll know; the Scottish Government has
28 done what the Alliance wanted or said they wanted, which is to pause. I suspect
29 that's not really what the Alliance wants. They don't want a pause; they want an end
30 to the proposed legislation. The Scottish Government has paused and has now, as
31 you've pointed out – in a democracy, we're all entitled to free speech – the Scottish
32 Parliament has a majority now for this legislation and will pass it in the nature of
33 democracy.

34 Q. Do you know – I don't know if you're aware but let me just put it to you – do you
35 know that of those children being referred to GIDS, in the case of boys, only 30%

1 are straight, heterosexual and in the case of girls, only 25% of them identifies as
2 heterosexual; did you know that?

3 A. I – I’ve read – I’ve read various figures but, of course, trans people can identify as
4 gay or lesbian in their acquired gender as well.

5 Q. They can. Well, let me put it more simply. Only 25% of females – girls – presenting
6 to GIDS, identify as heterosexual. That is 75% are either lesbians or bi. They are
7 attracted to members of the same sex; other girls. You understand that?

8 A. I know what a lesbian is.

9 Q. Well, I don't take nothing for granted in this case.

10 A. Really?

11 Q. So, you understand what a lesbian is-

12 A. I’m vice-chair of the LGBT group in Parliament. You have to have a basic
13 understanding – as a gay man, you can believe me, I understand what homosexuality
14 is.

15 Q. Well, I’m very pleased to hear it. So, 75% of girls presenting to GIDS identify as
16 lesbian or bi and you can see, coupled with a 4000% rise why that’s a proper matter
17 of concern for LGB Alliance, a lesbian and gay and bisexual organisation? You can
18 see that’s a proper matter for concern?

19 A. Well, I know this is their obsession, yes, I do.

20 Q. And it’s a proper matter of concern for an organisation promoting the interests dignity
21 and human rights of lesbian, gay and bisexual people?

22 A. Oddly enough, I thought that the proper purpose of the Alliance was charitable work
23 and that it was a charity and I notice we’re an hour into my evidence and we haven’t
24 discussed any charitable work that this organisation does, which I thought was the
25 whole purpose of this hearing.

26 Q. Can I take that as a yes or a no? That you agree or disagree that this is a proper matter
27 for a lesbian, gay and bisexual charity to be concerned about?

28 A. I am aware that they are concerned about it.

29 Q. I can only ask you the same question a certain number times.

30 A. And I can only choose to answer in my own words.

31 Q. Let’s move on then; certainly, so far as the way that is presented, expressing the
32 concern – expressing the concern about the lowering of the age; that’s explained and
33 set out in a non-aggressive, clear, and accessible way, isn’t it?

34 A. I don't agree. I don't entirely accept that – I mean, the wording is demure for the
35 reasons we discussed, because they don’t want to have the evidence submitted or

1 opinions submitted by people disregarded but they have said a number of provocative
2 and false things in it. So, a passive aggression – perhaps, we could agree that it’s
3 passive aggressive.

4 Q. Well, I don't agree with that but, happily, I don't have to. Their next – so, so far as
5 the language is concerned, we can, at least, agree that the language is written in non-
6 aggressive terms?

7 A. No, I don't agree with that. I think to talk about access risks, for example, I think is
8 – is unpleasant, angry – although coyly expressed language at this stage, without
9 monitoring what is to stop any man saying he is a woman and accessing women’s
10 spaces – no, I don't. I think that is aggressive because I think it implies that trans
11 people are predatory.

12 Q. And, the next heading, “LGBT Rights at Risk” – you understand what’s being said
13 there, don’t you?

14 A. I do, and just as I disagree that trans people – or this legislation – are a danger to
15 children, I think LGBT rights being put at risk – of course, I disagree with that.

16 Q. Well, you’ll, perhaps, agree with me that if it is easy to get a gender recognition
17 certificate, that is through self-declaration, it risks the very foundation of same sex
18 sexual orientation being a real thing; do you see that?

19 A. No.

20 Q. Well, let’s put it this way; if you have a heterosexual male – a male bodied
21 heterosexual, who gets a gender recognition certificate, does that – and so, therefore,
22 is legally female – does that previously male bodied heterosexual person become a
23 lesbian?

24 A. I – I – I’m afraid, I just don’t share the LGB Alliance’s ongoing obsession with
25 genitalia. It was what they appear to think about from the moment they get up in the
26 morning until the moment they go to bed. I once interviewed Mary Whitehouse and
27 she had this obsession and they remind me of latter-day Mary Whitehouses. I just
28 don’t spend my days thinking about people’s genitalia and I think it’s deeply
29 unhealthy for people to do so.

30 Q. You understand that a female bodied person is different from a male-bodied person?

31 A. People have different bodies and to answer your initial question; sleep with who you
32 want to as long as the other person wants to sleep with you. Be respectful and
33 consensual and have intimate relationships with whoever you want to.

34 Q. And-

35 A. It’s a free society.

1 Q. - and managing to change your sex through self-declaration risks making lesbians –
2 women who are sexually attracted to other females invisible, isn't that right?

3 A. I – explain to me how they become invisible?

4 Q. Because there is no meaning given to the concept of same sex sexual attraction if sex
5 becomes something you merely declare.

6 A. I think this is, again, part of an ongoing obsession. You identify as being a lesbian if
7 you feel yourself to be a lesbian. Nobody examines your body or examines your
8 genitalia before agreeing that you are a lesbian. So, call yourself a lesbian if you
9 want to be a lesbian. That is why the majority of lesbians in our parliamentary group
10 see no difficulty with the Gender Recognition Act. They do not feel that they will
11 be less lesbian if this legislation passes. And, of course, as you will know, the LGB
12 Alliance is comprised of only 20% lesbians. In court, recently, they were forced to
13 acknowledge that they are a majority heterosexual organisation.

14 Q. Well, you are wrong about that but we needn't trouble you any further with that-

15 A. Well, I'm slightly troubled by it because I think it goes to the heart of who the
16 organisation is.

17 Q. Well, you're wrong about that but let's get on with-

18 A. Well, you may argue that but that was the evidence.

19 Q. Well, you are wrong about that but we-

20 A. Well, I disagree so, let's just agree to disagree on the evidence.

21 Q. Let's look now, please, at page 1213, because this is a section I think you were keen
22 for us to look at. This is the reference – just above question four, a couple of bullet
23 points up – “The government should, instead, be encouraging children to be healthy
24 and happy in their own bodies, not making the current epidemic worse”. Yes?

25 A. Of course, children should be healthy and happy in their own bodies-

26 Q. I haven't asked – Mr Nicolson, I haven't asked a question.

27 A. You said “Yes?” which was, I presume, you were inviting me to agree or disagree
28 with you.

29 Q. I'm asking you to agree that you've got there; that you've seen it.

30 A. Oh, I see, you're asking me if I've seen it, yes, I have seen it.

31 Q. And now, I'm going to ask you a question about it.

32 A. Okay.

33 Q. I'm not asking you to agree it because I suspect you will agree with pretty much
34 everything LGB Alliance says-

35 A. Disagree-

1 Q. You see that what's written there and you made an observation, I think, a short time
2 ago about the use of the term "epidemic" – if I've remembered it correctly – certainly,
3 in your witness statement, yes?

4 A. Yes.

5 Q. And there's nothing reprehensible or problematic about using the word "epidemic"
6 in this context, is there?

7 A. No, I disagree. The word "epidemic" implies a plague which is an illness; something
8 unhealthy. It's clearly not a good thing to describe – to describe people's feelings as
9 an epidemic.

10 Q. There has been a 4000% increase in the number of children presenting to a clinical,
11 a medical service. Use of the word "epidemic" in that context is not problematic, is
12 it?

13 A. It is deeply problematic because it implies something unhealthy or a plague. You
14 would never use "epidemic" in any context that I can think of, except a negative one.

15 Q. At page 1217 – 1217 – I hope not to have to spend too long on this but we'll spend
16 as long as is necessary. These were two other matters that you were very keen for us
17 to look at. This is the letter signed by a number of organisations and, over the page,
18 a flyer but looking at this – 1217 – first, Press Pause – it's an advertisement, we see
19 at the top – Press Pause – and this is following on from their Press Pause campaign,
20 yes? And it's signed by LGB Alliance, Women Make Glasgow, For Women
21 Scotland, yes? Two women's organisations and an LGB organisation, yes? No
22 criticisms, presumably, of Women Make Glasgow and For Women Scotland?

23 A. Well, I do have criticisms of For Women.Scot because I've been on the receiving
24 end of a lot of their stuff on social media. They run a very aggressive and often quite
25 unpleasant social media presence.

26 Q. And-

27 A. As do the Alliance, as you know.

28 Q. Well, we'll come to that, in due course. Women Make Glasgow – do you have a
29 problem with that women's organisation?

30 A. I don't – I don't know much – I don't know much about that.

31 Q. And so, looking then, please, at this advertisement, which you also use, I think, as an
32 example of LGB Alliance's aggression around reform of the gender recognition bill,
33 yes – is that right?

34 A. Mm-hmm.

35 Q. We see in the third paragraph, which is, I think, the substantive paragraph, that it

1 removes the need for a psychiatric assessment, that's right, isn't it?

2 A. Mm-hmm.

3 Q. It says it and it's also true, yes?

4 A. We've covered this, yes.

5 Q. And there would be no need for a physical change, alright, we've covered that.

6 Nothing to stop any man gaining legal recognition with a birth certificate to match

7 and, thereby, access women's services, that's right, isn't it – save a self-declaration?

8 There isn't anything else required to access a women's only service?

9 A. Again, we're going around the houses. We have covered this and, as I've explained,

10 there are areas in which trans people can be excluded but I've also explained that

11 Rape Crisis Scotland support this legislation and they are the experts in this field but

12 you are inviting me, I think, to say what I find objectionable about this advertisement.

13 And it's as follows – I mean, obviously, “This is a bad law being pushed through in

14 case”, is false. It has taken a considerable amount of time-

15 Q. Well, just pause there. Much of this is opinion and difference in view in activism

16 around legislation, whether that's parliamentary activism, activism outside

17 Parliament; there will be differences in view and sometimes expressed robustly – I

18 think “robustly” is the word you use, yes?

19 A. Um-

20 Q. Do you accept that? That there will be activism outside and inside Parliament,

21 sometimes robustly expressed, yes, or no?

22 A. Well, yes, but – obviously, people will debate issues but they should debate issues

23 truthfully and they should debate issues in a way that does not cause undue concern

24 by repeating falsehoods. “This is a law that could be exploited by predatory men

25 who wish to hurt women and girls”. That is straight out of a Clause 28 campaign

26 book. “If you allow Clause 28 to be repealed, predatory men” – I remember the

27 posters all across Scotland – “predatory men will come for your children”.¹ It was

28 deeply offensive. This is almost copied and pasted from the pro-Clause 28 campaign

29 book.

30 Q. We're talking about men here, not gay men. We're talking about men – all men.

31 Men are much more likely to be sexually predatory than women, is that right?

¹ The Appellant has asked to put quotation marks around the text “*if you allow Clause 28 to be repealed, predatory men*” and “*predatory men will come for your children*”. The Second Respondent has objected to this, since that text is not found in the document to which the witness was taken and therefore the words are not a direct quote.

1 A. Yes, and they don't need gender recognition certificates to be predatory.

2 Q. And getting a gender recognition certificate means that a man can more readily access
3 a women-only service, is that right?

4 A. As we've established, you don't need to prove what your gender is in order to go into
5 swimming pools, into lavatories, into changing rooms in shops at the moment. So,
6 there is no evidence that ill-intentioned men who would be breaking the law in the
7 ways that you describe would gain more easy access or would be able to exploit this
8 if this was passed. If that was the case, you would be able to cite examples from
9 foreign jurisdictions which have already enacted this and you cannot do so, I suspect.

10 Q. Why do you think we have single sex services? Women's only services, in
11 particular?

12 A. Well, I mean – obviously, there are services that – where women feel more
13 comfortable.

14 Q. And because-

15 A. And where women can be additionally helped – I mean, a lot of women would, of
16 course, not be comfortable going into changing rooms in shops that were not
17 women's changing rooms. It's something we've done in society for a long time but
18 when you go to – I know your clients are obsessed with Marks & Spencer's at the
19 moment but nobody, in my experience, goes into Marks & Spencer's and is asked to
20 produce evidence of their gender before they go into the changing room. My mum
21 used to buy their underwear all the time. To the best of my knowledge, she was
22 never, ever asked to prove her gender before she got her smalls.

23 Q. And one of the other areas where single sex services are common are areas where
24 women are nude – like naked – got no clothes on whatsoever, women only changing
25 rooms in swimming pools, for example. Yes? Yes? You understand that, don't you?

26 A. Well, it's not hard to understand.

27 Q. And that's a women only space because women will not want men in that space, yes?
28 You understand that?

29 A. Some women are not bothered by it. I mean, I've spent plenty of time in Scandinavia
30 where they're unworried about these things; The Netherlands as well but, yes, I
31 appreciate, of course, that lots of women do not want to be naked in front of them in
32 a public space.

33 Q. And you understand and respect that, do you?

34 A. I will, always, under all circumstances express and respect people's rights to privacy
35 and to be themselves respectful.

1 Q. And you can understand, can you, that women might be concerned, including
2 lesbians, might be concerned that if a man – a predatory man can just declare
3 themselves a woman, they will be able to access spaces where women don't have any
4 clothes on at all?

5 A. You see, there you go again. You're onto predatory again. It is designed to
6 scaremonger and cause alarm. There is no evidence from other jurisdictions which
7 have enacted this legislation that predatory men then misuse it or pretend to be trans,
8 which I think is what you are saying will happen; that people will pretend to be trans
9 in order to access these spaces. Tragically, in society, it is all too easy to cause harm
10 to women, mostly – overwhelmingly, it's cis men who do it to cis women in the
11 family and elsewhere. I think the idea that there will be an epidemic – to use another
12 one of your client's words – of heterosexual men who will go to the problem – the
13 trouble of getting themselves a gender recognition certificate just to – just to harass
14 women seems fanciful. It did not happen in the other jurisdictions.

15 Q. Do you respect women's concerns about this?

16 A. I – as a parliamentarian, I always respect people's concerns but I'm aware of the fact
17 that the people who have concerns about this are a small minority and we know that
18 from our parliamentary postbags; we know that from the last election results and we
19 know that from the very limited amount of support that the LGB Alliance manages
20 to attract.

21 Q. Do you respect the views of that minority or majority – small number, large number
22 – of women who say, "I am worried that if a man can self-declare that they are a
23 woman, that a predatory man might do that and come into a space where I am naked"?

24 A. As a democrat, I always respect the minority views but one of the things that concerns
25 me about the LGB Alliance's campaign is, it is designed to increase fear and
26 trepidation to stir up unwarranted concerns and to frighten people. That is the point
27 of its campaign.

28 Q. And this is not an aggressive advertisement, is it?

29 A. Yes, it is aggressive. It says, "This is a law that could be exploited by predatory men
30 who wish to hurt women and girls". It attempts to link trans people with predators.
31 It is the very definition of prejudice.

32 Q. Well, it doesn't say that, in fact-

33 A. It doesn't say it but it dog whistles it.

34 Q. It says, in terms – in terms – "We believe the majority of genuinely trans people will
35 recognise the harm that malign individuals will do". They do not assert that trans

1 people are any more likely to be sexually predatory at or-

2 A. Well, that in itself is also false. The reason that we are here in this room at the
3 moment is because the majority of genuinely trans people do not recognise that. That
4 is why we are sitting here together. So, once again, the LGB Alliance is claiming
5 something false, that it has the support of the majority of trans people and we know
6 that not to be the case.

7 Q. And page 1218 – I don't think that says anything different but you pointed it out.
8 Perhaps, let's just look at the third column. "Many genuine trans people are
9 concerned that a weak, poorly thought-through bill trivialises their decision to
10 transition and poses a threat to women and girls". You accept that there are certainly
11 some trans women who hold that view? Can we agree on that?

12 A. There are a tiny minority of people who hold every view under the sun on every
13 conceivable subject so, of course, you are going to be able to find a small number of
14 trans people who might be persuaded to agree with that but Mermaids, who are here
15 today pursuing this case, who represent the majority of trans people, we certainly do
16 not believe that to be the case. And, the headline, "Self ID gives Predators the Green
17 Light" is scaremongering and deeply offensive and tries again to link trans people
18 with predatory folk who would cause women harm.

19 Q. No, not predatory folk; predatory men. Page-

20 A. I don't have any problem with that. Predatory men – they're trying to frighten people
21 into believing that self ID would allow predators or predatory men to attack women.
22 They are trying to link trans people with predators. It is the very definition of
23 predators.

24 Q. They are linking men – male bodied people – to predatory activity.

25 A. They're linking predators to trans people. That is by definition prejudiced.

26 Q. Let's look at page 1290.

27 A. 1290?

28 Q. Yes, please. Yes, do you see that?

29 A. Yes.

30 Q. That's another one of their campaign materials. I'm looking here – just taking the
31 tribunal through this with your assistance, because I am looking to see where we see
32 anything aggressive, okay? That's why I'm looking at these documents, and this is
33 a document where they repeat their points, making clear they are lesbian, gay and
34 bisexual people, yes – making these observations? Making the observations about
35 sport – the impact on sport – do you see that?

1 A. Mm-hmm.

2 Q. Hospitals, the alarming number of children presenting at GIDS, yes?

3 A. Mm-hmm.

4 Q. And the impact of characterising or maligning lesbians who are concerned about this
5 as transphobia, yes? Nothing aggressive or problematic – you don’t agree with it
6 when I say “problematic” – I should emphasise, I accept we know you profoundly
7 disagree with LGB Alliance. There is nothing problematic about the making of these
8 points, is there, Mr Nicolson?

9 A. Although, once again, the content is either false or misleading which is, in of itself,
10 problematic; there again, repeating about a 4,400% increase in the numbers of girls
11 being referred to gender clinics. Again, that ignores the actual numbers. They
12 suggest that puberty blockers are incredibly easily available. We know that puberty
13 blockers are really very hard to get and there’s a lengthy delay in young people trying
14 to get them. They use the words “medicalised children” – children who have been
15 medicalised, [that’s it simply wrong to be gay]. Again, implying that it’s just a bit of
16 confusion and that if you weren’t “medicalised” – in other words, if you weren’t
17 treated for the issues [that identify?] being born in the wrong body, you would grow
18 up to be gay. That is false.

19 Trans people do not simply grow up to be gay if they are left without help. That is a
20 false claim.

21 Q. Have you read the Cass review?

22 A. I – I – I’ve read a summary of it. I haven’t read it cover to cover.

23 Q. Can we just have a short break, madam? A matter has come up that it would be
24 helpful for me to explore anyway and rather than flap around with my references,
25 trying to find it and I wonder if this would be a convenient time?

26 JUDGE GRIFFIN: Now, yesterday, Ms Monaghan, you indicated that you might be about
27 an hour and a half with this witness-

28 A. Yes. Yes.

29 JUDGE GRIFFIN: I rather expect it is going to be longer than that. Are you able to update
30 your estimate?

31 MS MONAGHAN: Well, it would be helpful if the witness answered the questions and we
32 would be likely to get through it much quicker. Probably not much more; perhaps –
33 assuming Mr Nicolson answers the questions, perhaps, half an hour; something like
34 that.

35 A. May I – I – obviously, I have other duties. I came here yesterday because I was told

1 I would be questioned yesterday. I'm very happy to give my time to this but it is an
2 hour and a half in and we haven't yet explored the issue of why we're here; which is
3 their charitable status. I would prefer to just finish this now, if I possibly could and
4 if it's only going to be another half hour, I would be happy to continue.

5 MS MONAGHAN: Well, I didn't say – well, we will see how we go. If you focus on
6 answering the questions-

7 JUDGE GRIFFIN: All right, well-

8 A. I am answering the questions-

9 JUDGE GRIFFIN: Could I get a word in, please?

10 MS MONAGHAN: I beg your pardon.

11 JUDGE GRIFFIN: All right. We are going to take a short break. We always plan to take a
12 short break in the morning, if only to open these doors and allow some oxygen into
13 this room and to allow everybody to stretch their legs. We will do that Mr Nicolson.
14 It will be a short break but we will come back at 25 to 12. I hope and trust from what
15 has been said that you will be away from here by 1.00 but we are in the hands of the
16 advocates. Thank you.

17 **Court rises.**

18 **Court resumes.**

19 MS MONAGHAN: Do you have that?

20 JUDGE GRIFFIN: Yes, thank you.

21 WITNESS EVIDENCE OF MR JOHN NICOLSON MP

22 Cross-Examination by MS MONAGHAN KC (Cont'd.)

23 Q. You will, perhaps, have seen this; I don't know – this is a letter from the Chair of the
24 Equality and Human Rights Commission, and who they are, obviously to
25 Shona Robison, who is the Cabinet Secretary – so, she is the Cabinet Secretary for
26 the Scottish Parliament, presumably?

27 A. Yes, yes.

28 Q. And they set out their position in relation to the Gender Recognition Act and the
29 proposed reforms and, in their third paragraph, they say, as you know, "Some
30 lawyers, academics, data users and others have increasingly expressed concerns
31 about the potential implications of changing the criteria of the Gender Recognition
32 Act – that certificate – potential consequences for individuals on extending the ability
33 to change legal sex from a small, defined group who have demonstrated their
34 commitment and ability to live in their acquired gender to a wider group who identify
35 as the opposite gender at a given point".

1 Now, just a question there, if I may; we can see from that, that LGB Alliance – the
2 views and concerns of LGB Alliance are shared by a wider group of people. Is that
3 right?

4 A. There are some people outside the LGB Alliance who share those views. I notice, in
5 particular, that the views have found much favour with Members of Parliament with
6 a long anti-gay voting record and they – the folk who tend to oppose gay marriage
7 and opposed other gay rights legislation, have enthusiastically endorsed the LGB
8 Alliance.

9 Q. I assume you are not suggesting that those lawyers, academics and data users and
10 others are all people who are homophobic – you wouldn't be suggesting that?

11 A. Well, of course, some of the people who oppose gay rights wouldn't regard
12 themselves as being homophobic. As I come from a family of quite fundamentalist
13 Christians from the Outer Hebrides, they would not see themselves as homophobic
14 but they would believe that homosexual practice is wrong; as it goes against the-

15 Q. I'm assuming that you're not suggesting that the Equality and Human Rights
16 Commission are motivated by homophobia in responding to the question whether or
17 not this bill might be supported?

18 A. I always do my best to see the – to see the best in people. I do know that the Equality
19 and Human Rights Commission are a little bit more controversial than they were
20 before and, as you'll know, there's been some criticism of the changed regime there.

21 Q. And the last four lines – the potential consequences include those relating to the
22 collection and use of data, participation and drug testing in competitive sport,
23 measures to address barriers facing women and practices within the criminal justice
24 system and you'll know they're referring to prisons there, won't you? They identify
25 those potential consequences – nothing, you think, lies behind that, do you, except
26 an honest assessment from the Equality and Human Rights – the UK's body
27 protecting human rights?

28 A. Well, I think I would know what Shona Robison would say [to that includes here?],
29 for example, the issue about prisons has been addressed quite fully by the Scottish
30 Prison Service and I know, in the bundle of evidence, there is quite a lengthy section
31 about that.

32 Q. And page 2372, the penultimate paragraph, "As we work to promote and uphold
33 equality and human rights law, we will continue to call for urgent improvements to
34 gender identity services throughout Britain". No doubt, you would support that?

35 A. Yes, definitely.

- 1 Q. “We, otherwise, consider that the established legal concept of sex, together with the
2 existing protections from gender reassignment discrimination for trans people and
3 the ability for them to obtain legal recognition of their gender, collectively provide
4 the correct balanced legal framework that protects everyone – this includes protecting
5 trans people from discrimination, harassment, safeguarding their human rights”.
- 6 A. Yes, I realise that is Baroness Faulkner’s view. It’s my understanding that her
7 immediate predecessor at the Equality and Human Rights Commission would not
8 agree with that though, of course, it very much depends who is heading up the
9 organisation at a given time.
- 10 Q. Well, presumably, Baroness Faulkner would have been writing on behalf of the
11 Commission’s board?
- 12 A. I – you may know more about the functioning of their board than I do. That would
13 be my assumption but I couldn't tell you that definitively.
- 14 Q. And they oppose or they suggest – indicate – clearly, that they do not support the
15 proposed amendments to the Gender Recognition Act?
- 16 A. I – the previous board, I think, would have disagreed with that.
- 17 Q. Just a few more questions and I won’t be too long now, at paragraph, please, 19 of
18 your witness statement, at paragraph 19, page 155; I may not – I hope I don't have to
19 take you to these documents but I recognise I may have to; I’ll do my best without
20 them but paragraph 19, you say that LGB Alliance have engaged in extensive
21 political activity, yes?
- 22 A. Mm-hmm.
- 23 Q. And the first thing you give, by way of example, is lobbying the Equality and Human
24 Rights Commission and you will have seen the correspondence about this because
25 you set it out.
- 26 A. Yes.
- 27 Q. And what they have written to the Commission about and what the Commission have
28 responded about are the matters that we have spoken about, yes?
- 29 A. Mm-hmm.
- 30 Q. And the Commission is a perfectly proper place for the LGB Alliance to express their
31 concerns about what’s happening in the context of the recognition of trans people,
32 Stonewall’s activity and so on, is that the right place for them to go?
- 33 A. Yes, I just wish they would do some charitable work, rather than lobbying all the
34 time.
- 35 Q. And lobbying by charities is quite common, isn’t it?

1 A. Yes, but charities normally do other stuff as well.

2 Q. Lobbying by charities for legal reform, for example, is quite common, isn't it?

3 A. Yes, there are some charities that do that. But the key thing about the LGB Alliance

4 is that it says that it exists to provide help and services and to lesbian, gay and

5 bisexual people that aren't available elsewhere although I noticed that they lost a case

6 with the fundraising regulator last week over this but what I don't see – you said that

7 some of their campaigning was improper and inaccurate; what I've yet to see is any

8 example of non-lobbying work that they do that helps lesbian and gay and bisexual

9 people as opposed to carpeting trans people.

10 Q. We will hear much about that in due course when they give their evidence so, you

11 needn't trouble yourself with that. So, there's correspondence back and forth with

12 the UK human rights body; quite appropriate – back and forth correspondence that

13 is supportive and respectful; do you remember that? Well, you've set it out?

14 A. Yes, yes, I'm nodding in agreement with you.

15 Q. Right, and then, at (b) – page 156 – the bottom of the page – again, if we have to go

16 there, we will but, hopefully, we can deal with it with the statement, you refer to

17 lobbying of government ministers and other MPs to promote gender critical beliefs,

18 yes?

19 A. Mm-hmm.

20 Q. And that's, you've indicated, over the next section – Roman numeral, the next page

21 – 157 – concerns things like lobbying around GRA reform and so on, yes?

22 A. Yes.

23 Q. And you look at (I) – that's Kemi Badenoch, Minister for Equalities-

24 A. Mm-hmm.

25 Q. Kemi Badenoch would be an appropriate person for a lesbian, gay and bisexual

26 charity to lobby because she's Minister – or was, I don't know if she is now – Minister

27 for Equalities?

28 A. Who knows. I'm not sure she was ever an appropriate person to be

29 Minister of Equalities, however, given her voting record.

30 Q. She would be an appropriate person to lobby on legislative reform around these areas

31 because she held the equality brief-

32 A. She owned the portfolio, yes.

33 Q. Nothing problematic about that?

34 A. I've said throughout that providing they lobby and put their case respectfully and

35 truthfully, which they often haven't, they're entitled to lobby.

1 Q. Right. I'm only asking you about this because it's in your statement but we can,
2 perhaps, deal with it very quickly. Because, (II), (III) and (IV) and over the page (V)
3 and (VI) – they're all lobbying ministers and appropriate people; those who hold the
4 equality briefs in Parliament for government or who are special advisors-

5 A. Yes-

6 Q. Is that right?

7 A. Yes.

8 Q. And then, if we can look, please, at the very last section and, happily, again, I'm
9 going to be able to get through it very quickly, madam; I've only got one more issue
10 to deal with and that is tweets, yes?

11 A. Yes.

12 Q. And if we can look at page 158, just to locate ourselves. So, paragraph 21 of your
13 statement-

14 A. Yes.

15 Q. - under the heading – do you have that, madam?

16 JUDGE GRIFFIN: Yes.

17 Q. Under the heading, “LGB Alliance’s Denigration of Individuals and Organisations
18 who support Trans Rights” – and you say, “They have a record of denigrating people
19 and organisations who support trans rights, including me”. Over the page, 22, you
20 talk about the fact that robust engagement is fine and then, 23, “My personal
21 interactions with LGB Alliance are a pertinent example”-

22 A. Mm-hmm.

23 Q. And those are the – I'm not asking you to give us any other examples; I'm explaining
24 why I'm asking about this. I'm going to ask you about your tweets, because that's
25 the pertinent example that you give; is that understood?

26 A. Mm-hmm.

27 Q. Okay. Can we, please, then turn to volume 2.2 – 1344.

28 A. Yes.

29 Q. And this is a tweet that you send on 15 April-

30 A. Mm-hmm.

31 Q. - and it's – I think – I don't know what it's called – quote tweeting or whatever; I
32 don't tweet very much but when you put another tweet-

33 A. Linking-

34 Q. Linking, right. So, you link a documentary – details of a documentary and you
35 commend it and say it's immensely moving.

1 A. Yes, it was a constituent of mine.

2 Q. And then, the next page, 1345 – the 21st – there’s I think what’s called a quote tweet
3 – so, in the grey bit, there’s somebody tweeting and, given the context, it’s plainly
4 about that and they’re saying something supportive about it.

5 A. Yes.

6 Q. They’re saying it’s supporting trans rights and responding in a positive way to your
7 tweet, yes?

8 A. Yes.

9 Q. Yes, and then, you respond, apropos nothing, “Women who support LGBTQ rights
10 can often feel bullied by all the transphobic pile ons from the sinister @AllianceLGB,
11 whoever they are. Here’s one of the messages I’ve had tonight” – I mean, I don't
12 know who that is – but you’d had no communication or tweet from @AllianceLGB
13 by then at all, had you?

14 A. Well, let’s – let’s separate that out. So, on the night that I tweeted in support of this
15 young trans constituent of mine, I then got a deluge of tweets from various people
16 who were supporters of the LGB Alliance including a notorious online troll called
17 Wings Over Scotland whose account has since been removed, who was a great
18 supporter of the LGB Alliance. I also got a large number of direct messages. I should
19 say that the one that you refer to on page 1345 was a direct message to me and I got
20 a number of those from people who said that they were scared of speaking out
21 because they were scared of the pile on that they got – now, a pile on – if you don’t
22 use Twitter is, where you tweet something and then, large numbers of people, all of
23 a sudden-

24 Q. I know that bit.

25 A. - join in and that happens a lot in interactions with LGB Alliance. I mean, last night,
26 for example, one of their supporters tweeted and within moments, there were over
27 1,000 tweets about today’s hearing – many of the people-

28 Q. Perhaps, we can go back to the question. That was the first engagement that you had
29 had with LGB Alliance and they had had no engagement with you at all?

30 A. I’ve had a lot of engagement with their supporters. And the thing about the
31 LGB Alliance is that they – they like to set the hares running so, what they’ll do is,
32 they’ll wake up their supporters and then, lead the supporters – it’s quite Trumpist –
33 they’ll leave their supporters to carry on the abuse. And then, before they got
34 charitable status, they would join in. Since they got charitable status, they’ll say, “I
35 was so shocked by that. Why don’t they come and have a lovely cup of tea with

1 us?"-

2 Q. You're starting to sound like a conspiracy theorist, Mr Nicolson-

3 A. No, there's no conspiracy involved. There's no conspiracy involved in it. They're
4 not – they're easy to find. All you've got to do is tap in LGB Alliance into a search
5 engine, which you can do on Twitter and you'll find the kind of things that their
6 supporters do. There's no conspiracy; it's all very much out in the open.

7 Q. And this tweet, the first engagement that you had had with LGB Alliance, sent at –
8 posted just after 1.00 in the morning, is that right?

9 A. Yes.

10 Q. Just after 1.00 in the morning, you describe a group that you have had no engagement
11 with at all as "sinister" – that's not terribly seemly, is it, Mr Nicolson, for a Member
12 of Parliament?

13 A. Listen, I think – first of all, perhaps, I'll explain – I don't know if there's an official
14 bedtime at the LGB Alliance but politicians work quite late so, I – I – I – I don't know
15 what the implication or suggestion is of the time; I frequently work until the small
16 hours of the morning but yes, I think it's perfectly seemly. If you're concerned with
17 seemliness, you are going to be shocked, surely, at the stuff that the LGB Alliance
18 then tweeted about me, which they did – the suggestion is that I'm a rape enabler, a
19 misogynist. They impersonate a Member of Parliament, which is illegal. It's illegal
20 to impersonate a Member of Parliament.

21 I understand that they have since said that they regret some of this. I know that they
22 gave undertakings to the Charity Commission but challenged about their behaviour,
23 that they would reform – but they may have reformed slightly but I – and certainly
24 in public – but I know that, at least, one of their directors has continued obsessively
25 tweeting about me – dozens – scores of times in the last year. I have never, to the
26 best of my knowledge, mentioned any individual in LGB Alliance apart from once
27 their head of research, whom I blocked and suggested he stopped tweeting about me
28 because I couldn't read them – and recently congratulating Stonewall on winning
29 their case.

30 Q. That's everything I've got for you, Mr Nicolson.

31 A. Thank you very much.

32 JUDGE GRIFFIN: Thank you, Mr Nicolson, for that. We are going to now turn to see
33 whether Mr Steele has any questions for you on behalf of the Charity Commission
34 and then, I will turn to Mr Gibbon and see if he has any re-examination for you. Mr
35 Steele?

1 MR STEELE: No questions.

2 JUDGE GRIFFIN: Thank you. Mr Gibbon?

3 MR GIBBON: Yes, madam; I certainly have two questions at the end of those questions.

4 Re-Examination by MR GIBBON KC

5 Q. Mr Nicolson, you raised in your evidence, at one stage, that you said it had been
6 mentioned in court – I believe this court – that only 20% of the members of
7 LGB Alliance were lesbians and counsel gave evidence to say that you’re wrong but
8 she didn’t allow you the chance to say what your evidence was and why you believed
9 that was the case. Could you clarify?

10 A. Yes, it is my understanding from the recent case that one of the LGB Alliance
11 founders raised against Stonewall where, I believe that she crowdfunded vast
12 amounts of money saying, “I’m suing Stonewall”. She then lost against Stonewall
13 and tweeted to say that she had lost against Stonewall. It was vast amounts of money.
14 It was my understanding that, during the course of that case, she was pinned down
15 on the percentage of members of the LGB Alliance who were, in fact, lesbian and
16 my understanding is that she confirmed that it was 20%.

17 It certainly is, obviously, the case that if you look at LGB Alliance supporters that
18 many of them have pseudonyms. They’ve often got a tiny number of followers;
19 many of them overseas and, as you’ll know, when they recently were supported by a
20 political party that tried to weaponise their campaign, they got 0.6%. They’re very
21 good at fundraising, although they have been struck off the country’s two largest
22 fundraiser websites for their abusive behaviour. They were taken down.

23 Q. Thank you, Mr Nicolson. So, that evidence is – that’s your belief and that’s the basis
24 of your belief?

25 A. Yes.

26 Q. Can I then ask you to turn back to two documents you were shown by my learned
27 friend. They are, I believe in the second of the volume two – so, 2.2.

28 A. Yes.

29 Q. And, first of all, at 1217, and then – that’s the document headed “Press Pause”-

30 A. Yes.

31 Q. And then, at 1218, the document headed “Self ID gives Predators the Green Light”-

32 A. Yes.

33 Q. Now, you were cross-examined at length on the first of those documents but
34 relatively briefly on the second.

35 A. Yes.

1 Q. In your opinion, which is the worst of the two? You've expressed hostility to both.

2 A. Well, I think – I mean, I think Press Pause on the Gender Recognition Bill, the
3 headline is quite benign and I don't think anybody would look at it and be offended
4 by it. I presume that, at the LGB Alliance, they thought that it wasn't – it – it – it –
5 it wasn't objectionable enough and, therefore, they decided to go with “Self ID gives
6 Predators the Green Light”. I'm a journalist by profession and everybody knows that
7 if you want to get people to read an article, you put something very strong in the
8 headline in order to provoke people's interests. Putting the word “predator” and
9 “green light” is very red top tabloid and it's designed to get people to read further
10 and then, of course, it then – it then includes a lot of falsehoods about threats to
11 women and girls from the legislation. I mean, the idea that the First Minister of
12 Scotland, a lifelong feminist with a gender balanced cabinet, all of whom support
13 this legislation; the idea that she would do anything to endanger women and girls is,
14 of course, deeply offensive.

15 Q. And, Mr Nicolson, you were given the chance to go through the detail of the previous
16 document. Could you look though this page and highlight if there are any particular
17 points which are relevant to the views you've expressed.

18 A. This is the-

19 Q. 1218, yes.

20 MS MONAGHAN: This is not technically re-examination.

21 A. Well, I mean, obviously a man who has been convicted of sexual offences, he won't
22 have to shave off his beard; you know, talk of hormones, predatory men who pose a
23 threat to women and girls. I mean, it's designed to be terrifying. It's designed to
24 imply that if life was made a little bit easier for trans people, then, hordes – plagues
25 of predatory gay men would be bursting through the curtains of Marks & Spencer's
26 changing room in order to terrify and abuse women and that is designed to create fear
27 – it is straight from the top 20 playbook.

28 Q. Thank you. Madam, I have no further questions.

29 JUDGE GRIFFIN: Thank you very much, Mr Gibbon. Do you have any questions?

30 JUDGE NEVILLE: No.

31 A. Thank you very much, thank you.

32 JUDGE GRIFFIN: Thank you, Mr Nicolson, you are free to go.

33 Q. Thank you, Mr Nicolson.

34 JUDGE GRIFFIN: Thank you for coming and your patience in the alterations to the
35 timetable that we have experienced.

1 A. Not at all.

2 **Witness Mr John Nicolson MP released.**

3 JUDGE GRIFFIN: It is 12.00 noon, are we ready for the next witness?

4 MR GIBBON: Madam, yes, I believe so.

5 WITNESS EVIDENCE OF DR BELINDA BELL

6 Examination-in-Chief by MR GIBBON KC

7 Q. Good afternoon, Dr Bell. Perhaps, the place to start is by putting away anything
8 unnecessary and then, in due course, we'll have to get further documents out but, if
9 you can keep volume one there on the desk and everything back in the cardboard
10 box. Now, in that thin file you have there, if I can ask you to turn to tab 22 and can
11 you see a statement you recognise? And can I ask you to turn through to page 148
12 in the bundle? And, can you see there a signature?

13 A. Yes.

14 Q. Is that your signature?

15 A. Yes, it is.

16 Q. Now, this is your witness statement previously provided. Are you happy to adopt
17 this as your evidence or would you like to change or amend anything in it?

18 A. I'm happy to adopt it.

19 Q. Thank you, Dr Bell. I formally ask that the statement is adopted and I'll pass you to
20 Ms Monaghan, who will ask some questions.

21 JUDGE GRIFFIN: Pause, thank you. Ms Monaghan?

22 Cross-Examination by MS MONAGHAN KC

23 Q. Thank you. Okay, I think you are CEO of Mermaids, aren't you?

24 A. No, I'm the chair.

25 Q. Oh, chair, I beg your pardon; I'm terribly sorry. And when did you become chair?

26 A. Nearly three years ago.

27 Q. And your main focus – Mermaids' main focus, you tell us, is on children who are
28 affected by gender identity issues? Yes?

29 A. That's right.

30 Q. If you want to have your statement, then, do have it. That was – I took that from
31 paragraph seven at page 124, yes?

32 A. Yes.

33 Q. So, gender identity issues and in your objects, I think you put it as trans, non-binary,
34 gender-diverse children; That's the way it's described – the class – the cohort of
35 children that you are concerned with. All of those-

1 THE CLERK OF THE COURT: Sorry to interrupt, Dr Bell, could you speak into the
2 microphone, please?

3 JUDGE GRIFFIN: I think you are sharing one CVP link microphone. So, we will have to
4 – are we able to move-

5 **Discussion *sotto voce*.**

6 JUDGE GRIFFIN: I think it is just a slightly louder volume but please do not think that
7 either of you are shouting at the other.

8 Q. MS MONAGHAN: So, I may be speaking loudly at you and if you are feeling
9 uncomfortable about that, you can always give your answer to-

10 **Discussion *sotto voce*.**

11 JUDGE GRIFFIN: Thank you very much.

12 Q. Thank you.

13 JUDGE GRIFFIN: Can we just do a sound check? Mr Noah, we are just going to check
14 whether you can hear the witness any better.

15 THE CLERK: Okay.

16 DR BELL: Hello, Mr Noah, it's Dr Bell.

17 THE CLERK: Yes, I can hear you loud and clear.

18 JUDGE GRIFFIN: Thank you very much.

19 THE CLERK: Okay, thank you.

20 Q. Thank you very much, so, we were – I was just looking at the focus of Mermaids and
21 that's gender identity issues, in particular, as they affect children and I was going to
22 come on to say and help me with this that, of course, children will always have other
23 characteristics as well, apart from having gender identity issues; they'll be black,
24 they'll be white, they'll be disabled, they'll not be disabled and so on, yes?

25 A. Yes.

26 Q. But your focus is on those children with gender identity issues?

27 A. Yes.

28 Q. So, if you have – this is not a criticism; I'm just drawing the parameters – of course,
29 it's not a criticism, I hope that's obvious – so, if a child, for example, with a disability
30 that they're having issues with comes along, if they're not experiencing gender
31 identity issues, no doubt, you'd refer them on to somebody else and they wouldn't be
32 the subject of your concern – your immediate charitable concern?

33 A. No, they wouldn't but I can't imagine why a child – it seems unlikely a child would
34 come along to us if they didn't have a gender element to the things they were
35 concerned about so, obviously, these things are intersectional.

1 Q. Yes, well, the charity is set up for a particular issue; you identify a need and then,
2 you create a charity. That's what you have to do. Now, you also talk about gender
3 and sex and there is a lot of controversy, discussion, scholarly work about what sex
4 and gender mean; that's right, isn't it?

5 A. Yes.

6 Q. And at paragraph six of your statement – have I got the right paragraph there? Yes,
7 paragraph six, at page 124, you talk about those children with gender identities that
8 do not fall within a cis gender binary framework.

9 Q. Yes.

10 A. And just so we are clear about what a cis gender binary framework is, that is a
11 framework that, perhaps, is most easily recognisable as a binary biological
12 framework, there being males and females, have I understood that correctly?

13 A. Yes.

14 Q. Yes. And, for many people, gender identity is a very different thing, is that right?

15 A. A different thing to what, sorry?

16 Q. Sex. A biological male/female binary distinction?

17 A. Yes, so many people experience themselves in a physical body that is sexed in one
18 way or another or a range of ways and, also, additionally, have a sense of gender
19 identity.

20 Q. Yes, so, gender is something different from sex? I was – I was hoping we could get
21 to, yes?

22 A. Yes.

23 Q. And it's socially or culturally constructed?

24 A. Gender?

25 Q. Yes, those within the binary framework; biological framework, males and females,
26 girls and boys – a gender or a gender role because culturally and socially, we ascribe
27 certain characteristics for males and females, is that right?

28 A. Was that a question?

29 Q. Yes. Is that right? Do you understand gender to be in that way?

30 A. Well, it's very complex, isn't it? That's, you know, I guess, what we're, you know,
31 exploring a bit in these days but yes, it definitely would fit within my and our beliefs
32 that gender is somewhat culturally and socially constructed as well, yes.

33 Q. It's not something we're born with; I don't come out of the womb and they say,
34 "Well, you've got a vagina and you've got binary sex characteristics and in there
35 somewhere is a gender", it's something that's overlaid? That's not a criticism and I

1 think we all recognise it but am I articulating it in the right way?

2 A. I should say at the outset, right, that I am not transgender so, it's quite hard for me to
3 know how to articulate it. So, our job, really, at the moment, is to listen to children
4 and understand what we can do to help if they're distressed. So, you're trying to ask
5 if – if people come out of the womb with – well, you see, I'm not clear they come
6 out of the womb with a sex, to be honest. So-

7 Q. Well, they come out of the womb with a penis or a vagina.

8 A. Yes, so, if you want to reduce sex to penis or vagina – but, of course, that also isn't
9 true because intersex people exist and there is a range in the – in between being a
10 penis person, a vagina person.

11 Q. Well, there are intersex people but they are a minute, tiny, almost imperceptible
12 number of people.

13 A. Right, so, I don't have the numbers here-

14 Q. Okay, all right-

15 A. - but I disagree with that as a point of fact.

16 Q. Okay.

17 A. They're certainly a group that are minimised in the literature.

18 Q. Well, we've decided that there is a binary sex framework and we have decided that
19 – well, we've agreed, forgive me, that gender is something else and it's something
20 that is generally culturally overlaid, yes?

21 A. I think I'd agree with that.

22 Q. Yes, but there are some children – some girls and boys who feel more or less
23 comfortable with those – living with those social characteristics; those assumed
24 social and cultural characteristics – how boys and girls should behave.

25 A. Yes, again, I'm really cautious of speaking for other people but I think it's – I think
26 it's more than living with the characteristics or discomfort with living with the
27 characteristics and I heard the previous witness talking about being born in the right
28 body or the wrong body which is how some people describe this thing but other
29 people describe it as being a brain thing, like, in their heads differently. So, it's
30 complicated.

31 Q. Right, well, I'm asking you these questions because you are the Mermaids' witness
32 and have – you are the appellant and you are dealing with these matters in your
33 statement. So, that's why I'm asking you. No doubt, it is complex but the key issue,
34 as you've described it, is gender and that relates to the cultural expectations of what
35 girls and boys, women and men will do.

1 A. I think it relates to more than the cultural expectations. That feels really reductive;
2 it's like it literally is about – I don't know, hoovering or playing football or
3 something. I think it's – I think there's a much broader and more complex set of how
4 people experience and perceive gender cross-culturally than that.

5 Q. Right, well, one matter, perhaps, that we can add a bit more certainty-

6 A. Mm-hmm.

7 Q. - is a matter that you say is of particular focus for Mermaids and that's gender
8 dysphoria.

9 A. Yes.

10 Q. We've discussed gender; we've discussed sex. Perhaps, got as far as we can but let's
11 look, please, at gender dysphoria, which is a very particular matter and, perhaps, the
12 easiest way to deal with this, for my purposes, is to deal with it through the Cass
13 report. Now, you know what the Cass review is, of course, I'm sure and you know
14 that she has produced an interim report. That was a review commissioned by NHS
15 England, yes? And it was into the GIDS clinic, however one calls it, in the Tavistock;
16 is that right?

17 A. Yes.

18 Q. You understand that. And if we can look that up, please. That is in volume 2.2 at
19 1867. I'm going to spend a little of time with you on this, Dr Bell. Because it's your
20 field, if you like.

21 A. So, just to be absolutely clear; I'm not a medical doctor.

22 Q. No, no. Well, I say, "no, no" – I beg your pardon, that's very – I didn't know but
23 I'm not asking you medical questions.

24 A. So, I am neither a medical doctor and, additionally, in a sense, right, the Cass review
25 is not Mermaids' field. Mermaids does not do medical stuff. We don't give advice
26 on medical stuff. This is not – it's not part of what we do, very explicitly.

27 Q. You support children with gender identity issues, don't you?

28 A. Yes.

29 Q. And some of those children – perhaps, many – I don't know, but some of those
30 children will go to GIDS and will start upon a medical pathway. You know that?

31 A. Yes, yes.

32 Q. And some of the children that you support – Mermaids support – will be or will have
33 been referred to GIDS and will be on that medical pathway?

34 A. Yes.

35 Q. And you will have, no doubt – Mermaids – informed yourselves about what that

1 medical pathway is – gender dysphoria is, and how you can best then support the
2 children and families of those going through that medical pathway?

3 A. Yes, but as I say, with the explicit understanding that we are not medical people.

4 Q. Right, and you, I think – the Cass report was published in February 2022 and you
5 prepared your witness statement before that, do you remember?

6 A. Yes.

7 Q. Yes, and you didn't produce a supplementary one; no criticism at all. Absolutely no
8 criticism but I just want to – we'll see where we are with that; page 1882, if you may
9 – if you will – 1882. This is the conceptual understanding and consensus about the
10 meaning of gender dysphoria because – I'm going to take you through this in a little
11 depth, I think, because Dr Cass is quite critical about the way in which these matters
12 are being addressed and about GIDS, isn't she?

13 A. Well, I think everybody involved in the sector has been deeply concerned about
14 GIDS inability to meet the needs of the service users so, I mean, criticism – you could
15 call it criticism in that it's been very difficult.

16 Q. Well, that's probably a bit unfair because a lot of it is criticisms about some of the
17 concepts and so on so, perhaps, not just GIDS but look at, please, then 1882 –
18 “Conceptual Understanding”-

19 A. Mm-hmm.

20 Q. “In clinical practice, a diagnosis of gender dysphoria is currently based on
21 operational definitions. Some of those criteria are seen as outdated”. I don't know
22 if you're familiar with the DSM and the ICD, are you?

23 A. The DSM, yes; the ICD, no.

24 Q. And the DSM is the diagnostic manual – it's a diagnostic manual that identifies all
25 the various diagnoses of medical conditions and gender dysphoria is in there, isn't
26 it?

27 A. Yes.

28 Q. But it's considered, as it's said here, to be a bit outdated by some, yes?

29 A. Yes.

30 Q. So, she's exploring what gender dysphoria means and I'm asking you about this
31 because, just to remind ourselves, you've told us that that's one of your focuses at
32 Mermaids.

33 A. One of our focuses – our focus at Mermaids is children with gender identity issues;
34 some of those children may have gender dysphoria.

35 Q. And, she's expressing concerns about the conceptual understanding of the concept

1 of gender dysphoria – what’s understood by it. Yes?

2 A. Mm-hmm.

3 Q. Yes? If you want to pause and look at your statement, do. I don't want to catch you

4 out.

5 **Pause.**

6 Q. Is there something you'd like me to help you with?

7 A. Could you just wait a moment, please?

8 **Pause.**

9 A. Yes, that’s fine; carry on.

10 Q. And just, if you’re anxious about this or concerned about this, it was paragraph seven

11 where you told us that gender dysphoria was one of the most important gender

12 identity issues that you deal with, yes? And that’s why I’m asking you about gender

13 dysphoria. So, I’ve introduced it. Outdated diagnoses – diagnosis. “1.7 Criteria for

14 Diagnosis – primary, secondary and specialist level. Lack of agreement in many

15 instances; lack of open discussion about the extent to which gender incongruence in

16 childhood and adolescence can be an inherent and immutable phenomenon for which

17 transition is the best option; professions, experience and position on this spectrum

18 may determine their clinical approach”. So, in other words, what clinicians believe

19 about the conceptual idea of gender dysphoria may determine the clinical approach

20 they adopt. Is that something you are aware of?

21 A. Well, I don't know any clinicians in the field, personally, but I think you’ve just

22 transposed the word “position” for belief, is that right?

23 Q. I think I’ve read it and then said – put that it was belief but position is equally fine.

24 A. Yes, so, I think what Cass is saying that, unsurprisingly, professionals who have

25 different experiences approach things differently and people who come from

26 different positions approach things different.

27 Q. Well, different positions-

28 A. Yes-

29 Q. - they have a different belief about what gender dysphoria means.

30 A. As I say, the word “belief” is not there and it feels to me to be quite a loaded word in

31 this context but, go ahead.

32 Q. And to be clear, I have reminded you twice about this but I hope I’m not being unfair

33 about these questions; I’m asking them because you have told us that gender

34 dysphoria is a particular focus for Mermaids and children. Children – “1.8 – Children

35 and young people experience this as a clinician lottery and failure to have an open

1 discussion about this issue is impeding the development of clear guidance about their
2 care”, yes? Do you see that?

3 A. Yes.

4 Q. Are you aware of concerns that discussion is closed down about the concept of
5 gender identity even within a clinical setting, making the management of it
6 problematic?

7 A. I have no experience of that being the case.

8 Q. Well, if you did have experience of that, would it be a matter that concerned you?

9 A. Well, that’s a hypothetical question and I really don’t know much about how clinical
10 discussions normally work. I mean, apropos section 1.8, I can definitely say that it’s
11 Mermaids’ experience that young people and children experience a clinician lottery.
12 That bit I do know.

13 Q. And is that, so far as you know, based on or, at least, related to a failure to have open
14 discussions about the issue of gender and gender dysphoria at all?

15 A. I don’t know the answer to that.

16 Q. Now you’ve seen that in the Cass report, is that something that causes you to-

17 A. In the Cass – in – this is – we must remember, an interim report but it looks like she’s
18 doing great work so, I’m looking forward to seeing the final-

19 Q. Yes, and is this something – you having read it – that causes you or Mermaids any
20 concern?

21 A. Well, as I’ve said, we don’t give healthcare advice at Mermaids. So, all we do is
22 provide general information on the NHS clinical pathway and so, if, as a result of the
23 Cass report, that clinical pathway is changing and will change then, we will, again,
24 continue that. You know, we don’t seek to significantly have a view. What we can
25 do is, input our experience of what children and young people are telling us is their
26 experience.

27 Q. And, at paragraph 1.10-

28 A. Yes-

29 Q. She notes the fact that children presenting at GIDS are becoming more complex,
30 neuro-diverse, wide range of psycho-social and mental health needs, is that right? Is
31 that your experience?

32 A. Yes, I think anybody who is involved in the trans sector is aware of – well, so, there’s
33 – I think there’s two things I draw from this. So, one, of the prevalence of neuro-
34 diverse children and there’s a lack of data or understanding about what that might
35 mean and what’s going on there – I mean, it’s just simply undecided in the literature

1 and secondly, as we are unfortunately, aware, psychological and mental health
2 services across the country, particularly for young people are in absolute crisis. So,
3 it is the case that young people are presenting with more complex needs, yes.

4 Q. And she also notes that the largest group currently comprises birth-registered females
5 first presenting in adolescence with gender-related distress. Is that something you
6 are aware of?

7 A. Absolutely aware of this and I'm interested to just point out here that she says, "The
8 largest group currently comprises" – now, there has been a real change in the
9 numbers but the numbers, themselves, are tiny, right? So, percentages – they're just
10 meaningless. But there has been a change which I think we should be, as a society,
11 alive to but it's interesting how she phrases this because she says, "The largest group
12 currently", because what we don't know is if, previously, children registered female
13 at birth were under-represented and those of us, you know, who live in the world
14 know that, often, girls and women struggle to get their voices heard so it's possible
15 that previously, the girls weren't managing to get themselves referred and now they
16 are, or something.

17 So, I think that, yeah, it's something that everyone in this sector is aware of but we
18 – again, I'm not a clinician but I don't think that we're at any point where we can
19 take a view on what's going on there yet.

20 Q. Right. It could be something to do with the way that girls are presented or live
21 socially; their vulnerabilities? Their vulnerabilities might-

22 A. Which previously stopped them seeking services and that's now changed or – I mean,
23 I just don't know but I think the – although the numbers are tiny, the data seems to
24 be certainly worth exploring further.

25 Q. And, I don't know if you do know this but do you know that the largest proportion of
26 girls and boys presenting to GIDS are sexually attracted to people of their own sex?

27 A. Um-

28 Q. Lesbians, gay boys?

29 A. Yes, though, I do know this; I think – so, two things – I'll just add again, Mermaids
30 is a children's organisation and we deal with kids and gender and so, sexuality, as I
31 think you replied again with, is not our main focus. So, I'm not in any sense an
32 expert on sexuality but what I would say because I – because I think you're going to
33 point out the concern that lesbian or gay children may be transitioning and then, no
34 longer lesbian and gay but in my witness statement, I made reference to the quite
35 significant data set which shows that only 9% of transitioned people are straight. So,

1 like, at the end of this process of whatever comes out at the other end, we're not
2 getting a bunch of straight people. That's not what the trans community looks like.

3 Q. I wasn't asking you that question because we were concerned-

4 A. Sorry-

5 Q. - that they would come out not gay although, that is the end result. I was asking-

6 A. Well, it's not the end result; that's just what I explained.

7 Q. I'm asking you the question, really, the other way around-

8 A. Mm-hmm-

9 Q. Starting at the other end, if you like, of the story that, young lesbians – mainly girls,
10 may be finding it easier to opt for transition than live as non-gender conforming girls;
11 struggle with living in a society that attributes certain characteristics to them that they
12 don't have.

13 A. So, the suggestion that young girls would be finding transition easier than X, Y, Z is,
14 frankly, close to being laughable. Transition is a very serious, extremely difficult
15 thing to go through and to access in terms of – we're talking here about GIDS – so,
16 even proposing a sentence in that way misunderstands the experience of trans girls
17 and boys.

18 Q. Gender distress is a very, very serious issue, isn't it? It causes great harm to young
19 children sometimes?

20 A. Sometimes, but we should be clear, not everybody.

21 Q. No, and a lesbian girl or a lesbian struggling with gender because she is a gender
22 non-conforming girl-

23 A. By which you mean lesbian? Just to be – that's what you mean?

24 Q. Gender non-conforming – she dresses like a boy and is a lesbian – sexually attracted
25 to other boys – other girls, forgive me-

26 A. Yes-

27 Q. - might find that very distressing if she's a gender non-conforming girl; a lesbian that
28 dresses like a boy.

29 A. Yes, I mean I – again, I didn't grow up as a lesbian. It's clear that the world is a
30 better place for lesbian girls, I hope, now than it was under Section 28 and before but
31 absolutely, homophobia is still a thing, right, in schools; absolutely.

32 Q. And she might think it would be easier to be a boy than be a girl who doesn't conform
33 to those gender norms; wear girls' clothes and be sexually attracted to boys.

34 A. I disagree that that would be a plausible thing.

35 Q. Okay and then, if we can look, please, at paragraph 1.16 – we see – perhaps, we don't

1 need to spend too much on this, actually; it's just, I think, a point you've made as
2 well; there may be other needs that aren't addressed properly, yes? And then,
3 "Service Standards" – so, looking at GIDS – "Service Standards" – do you see that?
4 A. Yes.
5 Q. 1.18. She's examining those and the first bullet point, "From the point of entry to
6 GIDS, there appears to be a predominantly affirmative, non-exploratory approach
7 often driven by child and parent expectations and the extent of social transition that
8 has developed due to delay". An affirmative non-exploratory approach – that is, is
9 it, acknowledging the account of gender dysphoria without examining it, analysing
10 it or testing it?
11 A. Would you like me to comment on that?
12 Q. Yes, I mean, it says – as I understand it and you'll tell me if I'm wrong, affirmative
13 and non-exploratory is accepting of it without any analysis or testing?
14 A. Well, I mean, obviously, without any analysis seems unlikely; these are
15 professionals. But, yes, an affirmative approach to kids with gender identity issues
16 is in the same way that affirmative – affirmative approach to kids in general is,
17 obviously, good practice. That's how we approach it. But I think you are
18 minimising, perhaps, the second – the end part of this paragraph which is, "Due to
19 the extent of the delay in service provisions", so, due to the extent of social transition
20 that has developed due to the delay in service provision; at the point of entry to GIDS,
21 children have been waiting two, three, four years and I spoke to the parent of a
22 transwoman and, by the time she accessed the NHS service, she had a gender
23 recognition certificate; she'd been living in her gender for some years and she was
24 clearly a woman; it would be a bit ridiculous for them to explore that very much with
25 her and so, that's the-
26 Q. We're talking about children here, aren't we, Dr Bell?
27 A. Yes.
28 Q. We're talking about children, not adults.
29 A. No, but there are children who have been – as I say, I don't actually know the current
30 waiting list but it's certainly two, three, four years and so, you would – there's a
31 degree to which you would be exploratory, I would guess, would depend somewhat
32 on how long this child has been expressing what they're expressing and, indeed,
33 living in their acquired gender.
34 Q. Well, it's the predominant position taken by GIDS?
35 A. Yes, from the point of entry which, as I say – I'm sorry, I can't tell you it's two, three

1 or four years but a long time.

2 Q. And a second bullet point-

3 A. Yes-

4 Q. “Doesn’t appear to be a standardised approach to assessment or progression” – do
5 you see that?

6 A. Mm-hmm.

7 Q. And then, “There is little evidence of mental health or neuro development
8 assessments being routinely documented”?

9 A. Yes, as I referred to earlier, I don't think anyone was under any illusions that the
10 GIDS was functioning adequately for the needs of these children.

11 Q. And this is the only clinic, or was, and I suspect still is, the only clinic that deals with
12 gender dysphoria and children?

13 A. Yes.

14 Q. In England and Wales, forgive me – in England and Wales. So, the expressions of
15 concern about the way girls and boys who expressed themselves as trans are being
16 dealt with clinically are valid concerns, aren't they?

17 A. Well, this is why we're all so pleased about the Cass review and, indeed, the
18 outcomes that have happened so far.

19 Q. So, I think the answer to that is, yes?

20 A. Yes.

21 Q. They're valid concerns?

22 A. Yes, the system is not functioning.

23 Q. Yes, and there are cohorts of children, lesbians, gay boys, and mainly girls who are
24 presenting as trans we don't quite understand why and that's a worry as well, isn't
25 it?

26 A. I don't agree that that's necessarily a worry that we don't understand. There's a lot
27 in the world that I don't understand. What is the worry is that distressed children are
28 not able to access services which relieve their distress.

29 Q. Well, as the chair of Mermaids-

30 A. Yes?

31 Q. - surely, you'd be concerned to ensure that you understood or, at least, there was
32 work being done to help you understand why particular cohorts are identifying
33 themselves as trans – particular cohorts of children – disproportionately?

34 A. I think I'm, certainly, personally interested and I think Mermaids has an interest in
35 this but I reiterate, we do not give healthcare advice and so, this is for the healthcare

1 people to work out and then, we will support kids to access the services and to, you
2 know, provide the other bits that help them on that journey. And whatever that
3 journey might be.

4 Q. And at paragraph 1.6-

5 A. 1.6, yes?

6 Q. “There is internationally as well as nationally longer term”-

7 A. Sorry, 1.16?

8 Q. 1.26 – did I give you the wrong number? I’m terribly sorry – 1.26; I’m sorry.

9 A. Mm-hmm.

10 Q. “Internationally as well as nationally” – well, actually, let me start with 1.23 – that
11 may be my mistake; I beg your pardon. 1.23 – “Evidence on the appropriate
12 management of children and young people with gender incongruence and dysphoria
13 is inconclusive both nationally and internationally”. Would you agree with that?

14 A. Yes.

15 Q. “A lack of conceptual agreement about the meaning of gender dysphoria hampers
16 research”, do you agree with that?

17 A. Yes.

18 Q. “There’s not been routine consistent data collection within GIDS, which means it’s
19 not possible to accurately track the outcomes and pathways that children and young
20 people take” – do you agree with that?

21 A. Yes.

22 Q. Well, I’m asking you from your own experience?

23 A. Well, I don't know from my own experience but I’ll take Cass’s word for it and it
24 seems very likely.

25 Q. Okay, again, just to be clear; I’m asking you these questions, as we’ve discussed,
26 because you’ve talked about that in your statement but also because we are exploring
27 whether or not there is anything improper, worrying, concerning in LGB Alliance’s
28 activism around the positions. So, I’m exploring, well, are their concerns – do they
29 have any evidential base; that’s why I’m going through this, okay? And I think we’re
30 agreeing, so far as or, at least, you are not challenging Dr Cass’s observations about
31 the absence of research, including on longer-term outcomes, yes?

32 A. I’m not challenging Dr Cass’s review.

33 Q. And then, if we can look, please, at the end of 1.26 – “Internationally as well as
34 nationally, longer-term follow-up data, including those who have received physical
35 interventions or who were transferred to adult services or who have accessed private

1 services or who have desisted, experienced regret or de-transitioned”, yes?

2 A. Sorry, let me just read this paragraph.

3 Q. Certainly, please do.

4 A. Yes, there is limited data and-

5 Q. So, we don't know how many children seek to de-transition?

6 A. Yes, there is limited data on de-transitioning and desisting. So, if I can just add –

7 and there are reasons why it would be really difficult to get that data, including people

8 not wanting to go back to the clinicians that helped them to transition, for instance,

9 but also, particularly with kids and remember, you know, Mermaids primarily deals

10 with people under 19; we’re not talking about surgical interventions and I don't know

11 – the transition/de-transition thing feels very binary from my experience of trans

12 people, particular trans young people. You know, sometimes, people are exploring

13 things and so, the kind of – it’s not like you go somewhere –some people who de-

14 transition, many of those people, we know, de-transition to be non-binary and we

15 also have people who de-transition because of the social pressures and transphobia

16 so, I absolutely agree with Cass that there is definitely limited data here and-

17 Q. And that limited data includes limited data in respect of children who have received

18 physical interventions?

19 A. Yes, internationally, there is – you know, it’s a small group, right?

20 Q. We don't know how many children, including those who have had physical

21 interventions desist, experience regret or de-transition, do we?

22 A. Well, as she says, the data is limited. I mean, in my witness statement, I do refer to

23 a series of academic studies on the matter-

24 Q. Three-

25 A. - and, in fact – three – and the, an additional one came out just in August this year

26 which seems to be a – somewhat reasonable but I’m no expert in this field. So, it’s

27 not that there’s no data but it’s a difficult field to explore.

28 Q. Okay, well, let’s come back to the next subject, just briefly, and that’s on puberty

29 blockers and cross-sex hormones.

30 A. Yes.

31 Q. Page 1881 – so, we’re moving backwards. Do you see that?

32 A. Yes.

33 Q. So, the last – the last paragraph – “1.5 – the review is not able to provide definitive

34 advice on the use of puberty blockers and feminising, masculinising hormones at this

35 stage due to the gaps in the evidence base and there will be recommendations on

1 research”, yes? Are you aware, as chair of Mermaids, that there is a gap in the
2 research – the evidence base for puberty blockers and cross-sex hormones or
3 feminising, masculinising hormones?

4 A. I know that Dr Cass has taken the view that there is a gap in the research as it relates
5 to this cohort of children in the UK. I do know that there is quite a lot of research on
6 puberty blockers that have been used for many, many years in Europe so, it seems to
7 be quite contentious. So, I thought it was interesting how measured her comments
8 here are and so, we await her recommendations in due course.

9 Q. You have got research, haven’t you, that you think she may have overlooked?

10 A. No, I’m not saying she’s overlooked it all but she’s saying there’s gaps in the
11 evidence base, so there is some – you know-

12 Q. So, somebody who is concerned – expressing concerns about puberty blockers – all
13 these girls; these young lesbians, all expressing concerns about them and the impact
14 that puberty blockers may have on them would have some evidential basis to be
15 concerned about that?

16 A. I think any parent of a child who was considering taking puberty blockers would
17 have concerns. Partly, because of the limited evidence base but also, because it’s,
18 you know, a medical treatment for a child. However, a parent of a child approaching
19 puberty who was trans would also have concerns about the irreversible changes that
20 puberty brings such as like a lowered voice for somebody who was born as a boy.
21 So, we’re in a case here of having to balance our concerns about the unknowns of
22 the future for a child. So, I’m assuming that’s what the clinicians do.

23 Q. So, the LGB Alliance – a lesbian, gay and bisexual organisation-

24 A. Mm-hmm-

25 Q. - would have an evidential basis for expressing, formulating and expressing concern
26 about puberty blockers and cross-sex hormones being administered to children
27 presenting at GIDS?

28 A. Well, as I mention, at Mermaids, we don’t give healthcare advice and that’s because
29 we’re not qualified to do so and I would expect any other charity that was getting
30 involved in such a technical area, which has such huge implications for young people,
31 to be pretty cautious to actually have – for that to be their specialist focus, I suppose.

32 Q. Okay. Well, let’s just quickly go through this, then, so we can get through it more
33 quickly. Paragraph 3.29.

34 A. The same document?

35 Q. The same document; page 1903 – the same document – 1903-

1 A. Yes.

2 Q. 1903 – paragraph 3.29. She’s looking at whether or not puberty blockers might be a
3 good thing; as you’ve indicated, adolescence can be a very traumatic thing for a trans
4 child but expressing concern about the fact that that doesn’t mean time to achieve
5 fertility or, indeed, penile growth, yes?

6 A. Sorry, what was the question?

7 Q. So, the question is, she is also – we’re looking at puberty blockers-

8 A. Yes?

9 Q. And, I’m asking you to confirm and if you have observations on the fact that she’s
10 highlighting the problems with puberty blockers, including the fact that it may
11 impede fertility or will impede fertility and penile growth and then, she talks about
12 the side effects.

13 A. In 3.29?

14 Q. Yes, 3.30 and 3.29-

15 A. Sorry, I didn’t read 3.30.

16 Q. No, no, 3.29 is first – fertility and-

17 A. So – do I have any comments? Is that your question?

18 Q. Or, perhaps, you really cannot give any idea and I don't want to be unfair to you, if,
19 actually, Mermaids doesn’t engage at all with the question of treatment at GIDS or
20 those children they’re supporting, and the sorts of treatment they may be offered
21 then, tell me that and I’ll ask the tribunal to read and not ask you any questions on it.

22 A. We don’t engage with GIDS but we engage with thousands of trans children who are
23 – who are on different paths of a pathway that may include puberty blockers.

24 Q. So, just to be clear; you don’t have any involvement insofar as exploring these
25 questions, who the children’s cohort is, whether or not puberty blockers are
26 problematic; whether or not children might be locked into clinical pathways that
27 aren’t good for them? That’s not an area that Mermaids is concerned with?

28 A. So, in the past, we have met with GIDS about once a year for them to update us on
29 how things are going with their service – short story – badly. And for us to sort of
30 tell them about the experiences that our kids were having or things that were coming
31 up within our beneficiaries. So, there was that sort of engagement and, I guess on
32 the puberty blockers thing more broadly, which is an intervention which is, of course,
33 relevant to our beneficiary group, we are aware that lots of kids want – you know,
34 want this; this is the kind of the pathway they are going on so, we have an interest in
35 it to that degree but knowing about the exact point of time of puberty which would

1 be most appropriate for penile growth or whatever, that's outside of our-

2 Q. No. I'm not asking you to tell us what drug would be best prescribed for a child-

3 A. Okay.

4 Q. - but I'm seeking to – I'm seeking to get through you, if you like, whether or not

5 LGB Alliance's concerns about puberty blockers, the cohort of children that are

6 presenting as trans, the treatment pathways that they may be locked into, whether

7 those concerns have an evidential basis, whether they, therefore, might be reasonable.

8 A. There are two things; I'm not sure you can ascertain through me whether or not LGB

9 Alliance's concerns would have an evidential basis. I don't think I can do that for

10 you but I do want to just make the point that you've twice in the last little while, used

11 the expression "medical pathways they might be locked into", and I should push back

12 on that. My understanding on this matter is fairly clear that children take puberty

13 blockers to block puberty – the clue is the name – and they can subsequently come

14 off the puberty blockers and puberty will restart.

15 So, the vast majority of kids, the data shows, that have puberty blockers and do go

16 on to transition – and this is heartening because it implies that the assessment that

17 was done at the point that they went on puberty blockers turns out to be right-

18 Q. Well-

19 A. - but there is an opportunity to come off puberty blockers and not progress on a

20 pathway. So, I don't really buy the locked in pathway thing. And, again, it is also

21 quite, sort of, yeah, binary.

22 Q. Well, we've heard a lot of binary-

23 A. Yes.

24 Q. - I only ask you about that because we can see from 3.31 that that was precisely

25 Dr Cass's concern, that children might get locked in to a treatment pathway. 3.31 –

26 "The most difficult question is whether puberty blockers do, indeed, provide valuable

27 time" – as you are suggesting – "or, to consider their options or whether they,

28 effectively, lock in children and young people to a treatment pathway which

29 culminates in progression to feminising/masculinising hormones". So, you see that

30 concern; you are aware of that?

31 A. Yes, exactly and this is what I – what I – I think – I didn't actually realise that

32 paragraph was there and, as I say, it goes onto demonstrate that the vast majority of

33 young people who go on puberty blockers do go on to sex hormone treatment which

34 implies that they were correctly diagnosed or helped medically in the first place.

35 Q. Well-

1 A. And, as Cass says; this is the difficult question that she's seeking to answer, right?

2 Q. Well, I think, perhaps, I haven't put it clear enough.

3 A. Okay.

4 Q. The fact that a child goes on to cross-sex hormones, Dr Cass is worried about, is not
5 because they were properly diagnosed as being trans and needing puberty blockers
6 but because they have found themselves locked in to a treatment pathway, do you
7 understand that?

8 A. I understand what you're saying but I don't think that's necessarily the correct
9 interpretation of what's written.

10 Q. Just let me see if I need to go through-

11 **Discussion sotto voce.**

12 Q. I've got a couple more on this and I'll deal with them before lunch-

13 JUDGE GRIFFIN: Sure.

14 Q. And we go back, if I may, to 1893. Looking, here, at the conceptual understandings
15 again and just so you can have - I'll give you a moment to look through it but, in
16 essence, again, the suggestion that treatment choices by clinicians may be informed
17 by personal positions or beliefs-

18 A. Sorry, which paragraph are you at?

19 Q. I'm looking at 2.12. 2.12. If you just want to cast your eye over that to the end?

20 A. Is this something about physicians or clinicians at 2.12?

21 Q. If you look through, please, 2.12 to 2.19.

22 **Pause.**

23 A. Okay, yes. Sorry, what was the question?

24 Q. That the – there are differences in view, belief about gender identity and gender
25 dysphoria. Those beliefs are polarised and they can inform the treatment decisions
26 by clinicians.

27 A. Sorry, are you quoting there?

28 Q. No, I'm asking you the-

29 A. Right-

30 Q. I'm suggesting that that's what comes out of that so, 2.15, "Despite"-

31 A. Right, okay – so – sorry to cut across you; carry on.

32 Q. Not at all; not at all.

33 A. So, I think I can remember what your question was. I mean, it's nicely described
34 here, right, how complex some of this stuff is but what 2.15 is actually saying is that
35 it can have a bearing on expectations about clinical management as opposed to about

1 treatment decisions. It's talking about, you know, the parents or – heaven knows
2 what it's got to do with the wider public, really, but parents and children and young
3 people having – that – all of this discussion and the polarised debate has an effect on
4 the bearing – on expectations about clinical management. There's not stuff in here
5 about belief affecting clinical decisions – I don't think.

6 Q. Okay, well, we see at 2.16-

7 A. Right-

8 Q. - the second sentence.

9 A. Yes?

10 Q. Or, perhaps, I'll start with the first sentence, "Views will be influenced by how each
11 individual weighs the balance of factors"-

12 A. Yes?

13 Q. - "that may lead to gender incongruence and the distress that might be accompanying
14 it"-

15 A. Yes?

16 Q. - "Beliefs about whether it might be inherent and immutable"-

17 A. Yes?

18 Q. - that's gender; "whether it might be a transient response to adverse experiences", for
19 example, homophobia, I interject – whether it might be fluid or likely to change later
20 on; will have a profound influence on expectations about treatment options", yes?

21 A. And it actually says "on expectations and treatment options". So, in that case, she is
22 backing up your point, not mine.

23 Q. Well, she's saying that beliefs about gender – ideology, as it's sometimes put, about
24 gender and how we conceptualise it, is affecting, in some cases, at least, treatment
25 decisions-

26 A. About treatment options.

27 Q. Treatment options.

28 A. Yes, yes.

29 Q. And that's problematic, isn't it?

30 A. Well, I don't know if it necessarily is because our beliefs about the world affect our
31 decisions in all that we do including – I'm assuming clinical people – these are like
32 ontological questions.

33 Q. Just then, please – we can shut that file.

34 A. Right.

35 Q. Given what we've read – given what we've read, I suggest to you that asking

1 questions about why large numbers of girls are being treated at gender identity
2 clinics; why disproportionate numbers of them are lesbians is a proper line of inquiry
3 for a lesbian, gay and bisexual organisation. Would you agree with that?

4 A. I think, as I intimated earlier, I think it would be a proper line of inquiry for a lesbian,
5 gay, bisexual children's medical charity or something; you know, an organisation
6 that was focused on those issues but, otherwise, it seems to be to be far too niche and
7 specialist for the rest of us to be, you know, weighing in on.

8 Q. I'll ask you – I'll put this to you one more time-

9 A. Okay-

10 Q. - if you – if we can't get any further; we'll stop. I suggest that it cannot seriously be
11 argued that an organisation that is seeking to protect and promote the rights of
12 lesbian, gay and bisexual children should not properly have an interest in the way
13 lesbian girls presenting as trans are treated.

14 A. So, I'll say again, I think there is a space for this in specialist organisations that know
15 about medical things.

16 Q. I think that's it – just before – so that I don't have to come back on any other medical
17 matters, you've said more than once that you're not a medical specialist and I
18 understand that. I don't want to take you to materials and you are going to say, "Well,
19 I don't know about that because I'm not a medical expert", in the way that you did
20 when I spoke about – looking through Cass. Are you going to be able to help us on
21 things like clinical management-

22 A. Absolutely not-

23 Q. - numbers of children who de-transition?

24 A. Beyond what's in my witness statement, absolutely not.

25 Q. Thank you, but you have put it in your witness statement, haven't you?

26 A. Yes, so, we can discuss what's in my witness statement but clinical management, did
27 you just say? I don't think I speak about that in my witness statement, do I?

28 Q. Well, it's your witness statement; you can tell me.

29 A. Okay, so, in that case, I don't speak about that in my witness statement and I definitely
30 couldn't speak about it.

31 Q. But you could tell us about de-transitioning, for example?

32 A. I can tell you about what I said in my witness statement and, as I say, there is a new
33 report but I don't suppose we can introduce that now.

34 MS MONAGHAN: Madam, if this is a convenient moment then, I have finished with this
35 part of the cross-examination.

1 JUDGE GRIFFIN: All right. Thank you very much. We will come back at five past two.
2 And, Dr Bell, this has been said to all witnesses, you must not discuss your evidence
3 during the lunch break.

4 A. Oh, yes, no, I'm just off to Lincoln's Inn Fields on my own.

5 JUDGE GRIFFIN: Okay.

6 **Court rises.**

7 **Court resumes.**

8 MS MONAGHAN KC: Just if I may say, first of all, Ms Reindorf may not be here this
9 afternoon. A family emergency has arisen. We are hoping she will be able to return
10 but if there is a longer-term difficulty, I will pass a note up for you in due course.

11 JUDGE GRIFFIN: Thank you for letting us know. We hope that whatever is happening is
12 resolved.

13 WITNESS EVIDENCE OF DR BELINDA BELL (CONT'D.)

14 Cross-Examination by MS MONAGHAN KC (Cont'd.)

15 Q. Thank you very much, then, Dr Bell. We will carry on where we were. I'm going
16 to come to your particular concerns or criticisms of LGB Alliance in a moment but I
17 just want to deal with one criticism of Mermaids, if I may, just to contextualise what
18 I am going to say later. Mermaids has come into some difficulties with a narrative
19 that they had adopted some time ago for some years that children might be born in
20 the wrong body and that was the problem in relation to presenting as trans, is that
21 right?

22 A. I wouldn't say and that that was the problem in relation to presenting as trans. As
23 most people will be aware, this is an emerging area; not because trans people have
24 only just existed. Of course, trans people already existed but the discussion about it
25 is very emergent and Mermaids, unusually, has been around for more than 25 years
26 operating in that space. So, the language that we use inevitably has changed over
27 that time, as has language about LGBT people in general. So, as I understand it,
28 speaking to trans people and people who work with trans people, the kind of in the
29 wrong body narrative or expression was used somewhat – like, when it's really, really
30 hard to describe something and you're just trying to find a way to make people
31 understand – for some trans people, that's how they still choose to define it-

32 Q. And that was something that many people found problematic with children, leading
33 them to believe that they may be born into the wrong body; it's recognised as
34 problematic, isn't it?

35 A. Sorry, you've interrupted me and so, now, I've somewhat lost my thread. So, the

1 expression “in the wrong body” is used by some trans children and trans adults to
2 describe how they feel but a couple of years back, I guess, at Mermaids, we took the
3 view-

4 Q. Well, let me just take you to that so that we can locate – we can locate you; it’s at
5 page 2194 of volume 2.3.

6 **Discussion sotto voce.**

7 JUDGE GRIFFIN: I think Ms Monaghan acknowledges the issues, of course, and I am sure
8 she will-

9 **Discussion sotto voce.**

10 A. So, here we go; was it two years ago? Two years ago, yes.

11 Q. It was September 2020.

12 A. 2020, yes. So, at that point, we had a – this is an ongoing – a live discussion, I
13 suppose, in the community and we decided that it was time for us to – I mean, not to
14 stop using this phrase because some people use this phrase but to introduce other
15 phrases, think about it differently and we decided this wasn’t a thing we were going
16 to say routinely any longer.

17 Q. Yes, and that was because it was felt to be inappropriate?

18 A. Well, it was because there was an evolving discussion and that was our decision-

19 Q. Well, that-

20 A. - but maybe it wasn’t helpful.

21 Q. - that took place just around the same time that the Department of Education
22 published fresh guidance on RSE-

23 A. Right-

24 Q. - relationship, sex and health curriculum guidance-

25 A. Right-

26 Q. - and we see that at 2205. That’s published on 24 September 2020-

27 A. Yes-

28 Q. - and the day after, 25 September 2020, as we’ve just seen, you publish a statement
29 indicating that that’s not going to be a narrative that you are going to promote
30 anymore – or an expression you’re not going to-

31 A. An expression, yes – and interestingly, I was on the board of Mermaids at the time,
32 I actually have no recollection, I have to say, of this government guidance playing
33 into it although I see from the timing it might although if so, we managed to pull
34 together this article with all these quotes from all our various supporters and whatnot
35 very quickly. So, it could be a coincidence and it was, as I say, an emerging

1 discussion in the community or, it could be that we – well I’m assuming that’s your
2 suggestion, we did it as a response to this.

3 Q. That’s my suggestion-

4 A. Yes, so, I have no recollection of that being part of the decision so, I – I don't know
5 and, as I say, if we did do that, it seems like we responded remarkably quickly and
6 to produce so many people discussing it. And, in this blog, as I say, some of these –
7 these are trans adults, I think, all of them – some of them say it is an expression they
8 use and some say it isn’t, yes.

9 Q. And would you have engaged in any consultation exercise on the DoE guidance?

10 A. So, we do engage in consultation exercises; about 10 in the last year and this is the
11 sort of thing we might have responded to but I do not know whether or not we did
12 but, perhaps, you can tell me.

13 Q. Would you have met with any of the civil servants or ministers involved in this?

14 A. I don't know.

15 Q. Is that something you sometimes do do?

16 A. I think it’s something we would like to have access to do. I’m not sure that we really
17 very successfully ever do.

18 Q. Does that mean you never do it or you do it but you’d like to do it more?

19 A. I don't know. I think we definitely would like to do it more.

20 Q. I’ll come back to that so we don’t distract ourselves.

21 A. Okay.

22 Q. If you can turn, then, please, to 2214. This is the present guidance, isn’t it – 2214 –
23 and in relation to gender and sex – do you see that? The top of the page so, it’s the
24 second paragraph-

25 A. Yes.

26 Q. - beginning “We are aware”-

27 A. Yes.

28 Q. “We are aware that topics involving gender and biological sex can be complex and
29 sensitive. You should not enforce harmful stereotypes by, for instance, suggesting
30 that children might be a different gender based on their personality and interests or
31 the clothes they wear. Resources used in teaching about this topic must be age
32 appropriate and evidence based. Materials which suggest that non-conformity to
33 gender stereotypes should be seen as synonymous with having a different gender
34 identity should not be used and you should not work with external agencies or
35 organisations that produce such material. Whilst teachers should not suggest to a

1 child that their non-compliance with gender stereotypes means that either their
2 personality or their body is wrong, and they need to obtain changes, they always have
3 to deal with students with sympathy and support”.

4 So, the Department of Education, as well, have cautioned against the born in the
5 wrong body narrative-

6 A. Agreed.

7 Q. - and if LGB Alliance were to have expressed any view or criticism about the born
8 in the wrong body narrative, that would not be problematic?

9 A. Well, as I say, there is the DoE guidance. Referring back to our blog on the matter,
10 it's not that simple; there are some trans people who really are comfortable with this
11 description and want to use it about themselves and some people don't. So, the DoE
12 guidance is guidance, not fact about the lived reality of trans people's lives. So, it
13 seems like the finest guidance to me but I don't think we should suggest that this
14 guidance implies that nobody should use that term; not least because I know that
15 trans people do use that term or some trans people do use that term and want to use
16 it.

17 Q. I'm now going to come to the concerns that you have about LGB Alliance and, in
18 particular, those that you set out in your witness statement. I'll come to your witness
19 statement.

20 A. Mm-hmm.

21 Q. But Mermaids will have spent a lot of their charitable funds and personnel resources,
22 no doubt, on bringing this case?

23 A. Can I be absolutely clear that we are not – this case is not being funded by Mermaids'
24 charitable resources. The costs for the legal people and so forth is being covered by
25 a crowd funder which is not charitable. Nevertheless, there is some opportunity cost
26 for the staff that are here now; obviously, I'm a volunteer so, it doesn't cost me
27 anything to be here or it doesn't cost Mermaids but this case has not been funded, for
28 the most part, by charitable resources. It's in-kind contributions of staff time.

29 Q. And so, one might expect, even with that more limited expenditure from charitable
30 resources that your concerns would be very serious indeed?

31 A. Listen, I'm the chair of Mermaids; I wouldn't be here if my concerns weren't serious.
32 I'm here for six days.

33 Q. Okay. Well, let's look then, first of all, at what you've said. We'll go through the
34 statement; that might be the easiest and most efficient way to deal with it in the first
35 instance. One – we've already – I'm not going to go back through this; we've already

1 discussed the fact that you don't think LGB Alliance really has a role in addressing
2 the position of children presenting as trans; it might be lesbian, gay or bisexual, is
3 that right?

4 A. As I said, I think that – as myself, somebody who sits on charitable boards, I would
5 want to be on a specialist charity doing that sort of stuff and it's not appropriate
6 unless you are medical people.

7 Q. So, you've given us, please, at page 127-

8 A. Mm-hmm-

9 Q. - a list of particular concerns that you have and starting, please, then, at paragraph 14-

10 A. Yes-

11 Q. - I beg your pardon, I've asked you that question. Paragraph 15 – paragraph 15 –
12 you talk about LGB Alliance's original mission statement as including, "To protect
13 children and young people from being taught unscientific gender doctrines,
14 particularly, the idea that they might have been born in the wrong body which could
15 lead to life changing and potentially harmful medical procedures", yes? There's
16 nothing wrong with that, is there?

17 A. Nothing wrong with what?

18 Q. Nothing wrong with that as a statement? You may not agree with it but-

19 A. Yes, and I may not think it's charitable but it's a statement, yes.

20 Q. Well, it's a statement and it's one that can't be criticised; it's a viewpoint but
21 "unscientific gender doctrines concerned being born in the wrong body" and
22 expressing concern about that is not problematic, is it?

23 A. Well, we seem to be going over old ground here. I'm not quite sure what your
24 question is. Could you be more clear?

25 Q. Yes, certainly. You have, from paragraph 14 onwards; you have provided a list,
26 which I'm going to go through, of those matters which you say cause Mermaids
27 concern relating to LGB Alliance's activities?

28 A. Yes, in paragraph 15, I'm stating their original mission statement.

29 Q. And you-

30 A. And one of their aims, sorry, yes.

31 Q. And I'm suggesting to you that there's nothing that can be criticised about them for
32 that; there's no-

33 A. Well, I mean, you could definitely criticise the language here; "unscientific gender
34 doctrine" seems to me to be extraordinarily weighted language, especially about such
35 a weighty issue. "They may have been born in the wrong body" – I think we've just

1 | agreed – I can't remember – yes, we've just agreed that that's slightly out-of-date
2 | language potentially. Some people don't like it; some people do, whatever, and
3 | "which may lead to life changing and potentially harmful medical procedures" is just
4 | something that's postulated, you know-

5 | Q. Well, it could do, couldn't it?

6 | A. Well, yes, but it might lead to a – you know, I don't know, falling off the planet or
7 | something – whatever. It doesn't seem to be very, I don't know, robust to me. But
8 | anyway, it's not my mission statement.

9 | Q. It's not your mission statement. It isn't something that would cause you to come to
10 | court and question their charitable status and use your resources to do so, would it?

11 | A. Well, taken together with the actions – I mean, that's why we're here, as I guess the
12 | witness earlier today stated, it's sort of a – it's bundled up together. There's the
13 | statement and then, the way that the statement is enacted in practice.

14 | Q. Well, let's look at the next area of concern at paragraph 60, which is its
15 | LGB Alliance's schools campaign.

16 | A. Mm-hmm.

17 | Q. And that's a campaign you say gets the teaching of gender identity issues in RSE-

18 | A. Mm-hmm.

19 | Q. - and if I could ask you, please, to go to that, which is at volume two, page 1035-

20 | A. In 2.1?

21 | Q. It's 2.2, please.

22 | JUDGE GRIFFIN: 1035?

23 | MS MONAGHAN: 1035, please. I think it starts at 1034, I think.

24 | JUDGE GRIFFIN: Yes.

25 | Q. This is their schools campaign.

26 | A. Right.

27 | Q. And this is the document, as I understand it, you criticise. It's the schools campaign
28 | document and at paragraph – at the bottom of the first page, 1034 – the first page I'm
29 | looking at – 1034-

30 | A. Yes-

31 | Q. - well, they don't think that any child should be fed any type of ideology that would
32 | confuse or upset them. I guess you agree with that.

33 | A. Well, that type of language, frankly, is, you know – this is not the way that we would
34 | speak about educating our children and about this issue.

35 | Q. Well, it's expressing the same views or, at least, it's reflecting the concerns that Cass

- 1 felt; that there are ideological positions floating around and we need to be careful not
2 to upset children or confuse them with them.
- 3 A. I, obviously, agree that we don't want to upset or confuse children. I think that, as I
4 recall it, Cass didn't actually use the term "ideological" – I think that was your
5 summary of her paragraphs.
- 6 Q. She used "belief". And then, they go on, at the next two bullet points, "Dressing up,
7 being a boy and a girl is not a feeling; two sexes", and then, over the page, at the top
8 bullet point, looking at the question of dressing up, in other words, doing gender non-
9 conforming things is not problematic.
- 10 A. So, the second bullet point – so, we can take this – the children like dressing up and
11 then, to equate dressing up with trans people's experiences is – I find it quite
12 demeaning. I guess it's a lack of understanding about what trans kids actually
13 experience, which, as I say, I haven't experienced myself but I think to align dressing
14 up as a space creature with being trans is – is – is demeaning to kids' experiences.
- 15 Q. I think what they're saying, isn't it, Dr Bell, that which the RSE guidance alludes to;
16 that the fact that children aren't gender conforming, and dress up in clothes ordinarily
17 associated with the opposite sex or do things – engage in activities that are ordinarily
18 associated with the opposite sex shouldn't lead an educator to suggest they're born
19 in the wrong body or might be trans?
- 20 A. Quite – quite clearly. I can't – it's hard for me to imagine anything that should lead
21 an educator to suggest somebody was born in the wrong body or was trans. That's
22 simply doesn't seem to be an appropriate thing for an educator, at this stage – we're
23 talking about primary school children to do. So, clearly – clearly not.
- 24 Q. And then, they raise, in the next paragraph, what happens after children have attended
25 classes; "all of these curricular will encourage children to think about whether they
26 should change gender", yes? If one engages in discussions on changing sex, gender,
27 wrong bodies – it's concerning-
- 28 A. This is so – I'm sorry to interrupt-
- 29 Q. Not at all-
- 30 A. - this is so reminiscent of homophobia and Section 28. "If we tell people about gay
31 people, they'll all suddenly become gay". It's not – it's not just laughable; it's so sad
32 to see this stuff. It's not the case that a child would choose to change their gender
33 because somebody suggests it. I'm sorry.
- 34 Q. A gender non-conforming child; a girl who is a lesbian and wears boy's clothes, plays
35 football might well, if they're told that they're in the wrong body, or that that is even

1 an option, think, “Well, perhaps, I’m better trans”.

2 A. Right, so, firstly, as I say, I cannot imagine an educator would suggest to that child
3 that they were born in the wrong body or anything else to that – to that end. And I
4 don't know if somebody might think they're better off trans but it wouldn't take very
5 long of thinking about it to realise that being trans in this world is not easy. It just
6 seems implausible to me that that would happen.

7 Q. And then, at page 1035 – don't need to read it out-

8 A. Yes-

9 Q. - but this is material we've already seen-

10 A. Yes-

11 Q. - about sex being biological and concerns about gender and it being a social construct
12 and so on.

13 A. Yes, and this concern about the number of girls.

14 Q. And although you may not agree with that analysis, it's a rational analysis; it's not
15 problematic. You may fundamentally disagree with it but it's not problematic; it's a
16 point of view. Or, a belief.

17 A. So, it might be a point of view or a belief. I mean, I don't think it's probably – I
18 mean, I'm not here to do this but, I mean, whether or not it's an analysis would,
19 perhaps, be a stretch but it's obviously something that's completely reasonable for
20 people to say and to think.

21 Q. And if we look over the page, there's a template letter – so, encouraging people to
22 respond to the RSE guidance, yes?

23 A. Yes.

24 Q. And then, over the page, at the top of the page, “What we cannot accept is that
25 children should be taught by lobby groups who believe in gender identity that they
26 may have been born in the wrong body”, that's okay, isn't it?

27 A. Well, again, I mean, we don't need to accept that because I – I mean, perhaps, you
28 can show me evidence otherwise but I cannot believe anybody was being taught that
29 they – that they've been born in the wrong body. That's – you know.

30 Q. And “Other Activities”, please. I'm not sure it's going to be necessary or we'll have
31 time to go through every single one of them-

32 A. Yes.

33 Q. But let's look, please – I'll just check my notes and see what I must deal with –
34 paragraph 17 of your witness statement.

35 A. Yes?

- 1 Q. On 23 November 2020, Beverley Jackson was quoted by the BBC as saying, “We
2 don’t think children should be allowed to self-diagnose any medical condition. We
3 need to take a step back and ask why so many young people are presenting at the
4 clinic for gender treatment”, yes? You put that down in your list of things as one of
5 the matters that you are concerned about and has caused you to make this application
6 – launch this appeal, yes?
- 7 A. Yes, as I say, here, this gives a misleading impression; this idea of self-diagnosis is
8 profoundly wrong and in it’s – of course, I worry for trans kids that when this sort of
9 demeaning stuff is in the public domain.
- 10 Q. Just – thinking about that through the prism of Dr Cass’s report-
- 11 A. Yes?
- 12 Q. You see that reflects one of her concerns, that children are presenting at GIDS,
13 presenting as trans and that being affirmed without any exploration. That reflects
14 that concern, doesn’t it?
- 15 A. So, I don't have the Cass report still in front of me but – so – so, I think what you've
16 done is, kind of put some different bits together there. What is concerning in this
17 statement from Beverley Jackson is – there’s two parts to it. This – it’s – it’s
18 misrepresenting what happens; that children can’t self-diagnose, clearly, that’s just
19 misrepresenting it and then, this other issue about why are so many young people or
20 why are more young people than previously coming for gender treatment and, as Dr
21 Cass said, we don't know and they’re getting there later because of the waiting lists.
- 22 Q. And just, please, if we can turn to paragraph 24-
- 23 A. Yes?
- 24 Q. I’m not picking up on every paragraph; I’m picking up on those that seem to be to
25 have some evidential basis, not least. Paragraph 24, you refer to the evidence that
26 LGB Alliance gave to the House of Commons Women’s and Equality Committee-
- 27 A. Mm-hmm-
- 28 Q. And that’s at 1044, volume 2.2. In fact, I think it might be the one you've got in front
29 of you.
- 30 A. Yes.
- 31 Q. 1044?
- 32 A. Yes.
- 33 Q. I know, it’s very hot again – we are mindful of that. 1044.
- 34 A. No, it’s fine.
- 35 Q. This is the evidence that they gave to the Women’s and Equalities Committee and

1 you flag up two paragraphs; one is number 11 – do you see that? The top of the
2 page? The top of page 1045?

3 A. Yes.

4 Q. Do you see that? The top of page 1045?

5 A. Yes.

6 Q. It says, “Many young girls and boys are now taught at school that if they are gender
7 non-conforming, they may have been born in the wrong body; that dangerous
8 indoctrination is continuing”.

9 A. Yes, that’s exactly what it says.

10 Q. And this is a House of Commons Women’s and Equality Select Committee-

11 A. Yes-

12 Q. - and they’re entitled to give evidence about their concerns.

13 A. Yes.

14 Q. And there has been a narrative among activists in this area – or those operating in
15 this area, that a child might be – it’s conceivable that a child could be born in the
16 wrong body.

17 A. As I say, we’ve discussed that language and whether or not – how much it’s widely
18 used. But I – even if that were the case, as I say, I don't think that – schools teach
19 about gender and sexuality in a neutral way. They’re not saying, “It’s you; you might
20 be this or you might be that” – at least, I hope that that’s not what’s going on. I can't
21 imagine it is what’s going on so, the idea that a child is being told or taught that they
22 might be wrong – something might be wrong about them just seems unlikely to me.

23 Q. And, paragraph 20 is the other paragraph you-

24 A. 20, right, yes.

25 Q. - flag as concerning concern. “The whole subject of de-transition – those who
26 transition and then regret is currently a badly under-researched area. Many of the
27 LGB groups that have recently formed around the world include de-transitioners in
28 their ranks. These people all report that they regret their decision to transition, either
29 because of poor surgical outcomes, physical interventions that went wrong or didn’t
30 resolve; LGB Alliance has written to mental health minister, Nadine Dorries, with
31 an urgent request drawn up by psychiatrists that the NHS establish a de-transitioners
32 unit”.

33 As to the first bit, you can accept, I’m sure, that de-transition is badly under-
34 researched?

35 A. It seems that it’s under-researched although, as I say, this new paper that came out in

1 August which is, actually, in Paediatrics Magazine, which is one of the top 100 rated
2 science magazines – so, like, I’m prepared to accept it although I’m not an expert in
3 the field but it’s coming up with the same – 97.5% of people are still trans or non-
4 binary five years later. And, you know, we look across the evidence base; we’re kind
5 of getting a sort of 2.5% or something – you know-

6 Q. Five years? That’s not very long, is it?

7 A. It’s an interesting question, isn’t it? Exactly. I mean, although the evidence seems
8 to be that people – there’s a drop off of, you know, people who de-transition or
9 change their gender identity more rapidly and then, settle down but, particularly, if
10 you are talking about children, it is an interesting question.

11 Q. Nothing problematic about what’s said there, though, is there?

12 A. Well, I think I would be surprised – the claim that many LGB groups now include
13 de-transitioners in their ranks, I respect that people who have experienced transition
14 and changed their minds or whatever may not want to be public about that but I’m
15 not – it doesn’t strike me as like – I’m not coming across many de-transitioners in
16 LGB groups. They may exist but that sounds like it’s an unsubstantiated claim, as
17 far as I’m concerned.

18 Q. Paragraph 25 in your witness statement.

19 A. Yes.

20 Q. Your next complaint that caused you to appeal is that LGB Alliance wrote to MPs
21 arguing that a proposed ban on conversion therapy – arguing that affirming a gender
22 non-conforming child as trans who would otherwise grow up to be lesbian, gay or
23 bisexual is, itself, a form of conversion therapy. Do you see that?

24 A. Yes.

25 Q. And you’re not happy about that?

26 A. I’m decidedly unhappy about that as is the majority of the LGB world, to see this
27 kind of mis-construal of conversion therapy is, frankly, quite distressing and I’m
28 neither trans nor gay.

29 Q. And you’ll know that that comes from the fact that the Cass report or, in fact, it
30 preceded the Cass report – becoming obvious by that stage – that there was an
31 affirming non-exploratory approach happening in GIDS.

32 A. As I mentioned, I’m no clinician here but my understanding is, actually, that
33 technically, GIDS did not use an affirmative gender approach. I think that does mean
34 something quite technical in gender terms but you’re – so, we’re using it an informal
35 way which is, like, listening to the child.

1 Q. And this was written – your statement was written before the Queen’s speech, wasn’t
2 it?

3 A. It was written in January.

4 Q. Yes. And you will know that Boris Johnson announced in the Queen’s speech that,
5 indeed, while there would be legislative change introducing a ban on conversion
6 therapy in the case of same-sex sexual orientation by sexual orientation, there would
7 be none in relation to trans because that was an area that required further examination
8 and exploration, yes?

9 A. Yes, that’s exactly what Johnson said and it was extremely distressing for the trans
10 community. The evidence is quite clear that the trans people are the most at risk of
11 conversion therapy and, in fact, they’re the most vulnerable of this group across the
12 LGBT spectrum. So, to see this isolating – and it particularly affects younger people,
13 so, that includes children in Mermaids case, it was extremely distressing when that
14 happened.

15 Q. And that was because the reason for the government’s concerns at that stage was that
16 there was a concern that therapeutic intervention – that is something more inquiring
17 than a mere affirming approach could be regarded as conversion therapy. There
18 might be a risk penalising clinicians if they move from an affirmation approach to a
19 more exploratory approach?

20 A. That was the government’s stated reason-

21 Q. Yes-

22 A. - however, this has not been a problem in anywhere else in the world where
23 conversion therapy has been brought in for LGB or LGBT people. So, a stated
24 concern, as you know, in the context that the government doesn’t actually,
25 necessarily, imply an underlying legitimate explanation.

26 Q. And then, at paragraph 26 – again, you’re listing the things that have caused you –
27 Mermaids – forgive me, to appeal – concerns about LGB Alliance; gay teens aren’t
28 sick. Most young people who are prescribed puberty blockers say they are attracted
29 to people of the same sex. That’s not problematic, is it?

30 A. Well, it’s problematic for all the reasons we – we – we can cover but, in particular, I
31 don’t really want things about gay teens or trans teens written on the side of a van in
32 London. I think it’s a totally inappropriate way of approaching-

33 JUDGE GRIFFIN: I am sorry; I am finding it difficult to hear you because of the layout of
34 the room.

35 A. Sorry.

1 JUDGE GRIFFIN: Could you move slightly to your left and if you could slow down a little
2 bit – I know it is hard.

3 A. Oh, sorry.

4 JUDGE GRIFFIN: That will not help amplify you for us, I am afraid.

5 A. No, that's true.

6 JUDGE GRIFFIN: It is not a good room from that point of view and I know it is hot in here;
7 we will take a break.

8 A. Sure.

9 JUDGE GRIFFIN: And if you need a break, do let us know.

10 A. Thank you.

11 JUDGE GRIFFIN: But if you could just slow down and try and speak up a little.

12 A. Certainly, thank you. I was being asked about paragraph 26 about the LGB Alliance
13 campaign and I think your proposal was, "This is not problematic, is it?" And, my
14 response to that is, this is deeply problematic. Writing about gay teens or trans teens
15 on a side of a van is an utterly inappropriate way of attempting to have a civilised
16 debate if, indeed, that is what you are attempting to do. So, I find it hugely
17 problematic and, of course, it's reductionist. As I mentioned earlier, only 9% of trans
18 people are straight. So, the idea that whether trans – that, somehow, becoming trans
19 or enabling trans kids eliminates gay people is wrong in fact, you see?

20 Q. They express concerns about the medicalisation of gay children being provided with
21 puberty blockers. You may not like the van thing but that is a perfectly reasonable –
22 even if you don't agree with it – message, isn't it?

23 A. Well, as I've said, it's absolutely not reasonable to put that message in that way,
24 without more information on the side of a van.

25 Q. And then, if we can look, please, at paragraph 27; I hope I can take this quickly.

26 A. Yes.

27 Q. Paragraph 27; another one of your concerns and that concern appears to be that they
28 meet with – in fact, you've prepared a Freedom of Information Act request to secure
29 information about this – they've met with the minister with the Equality Brief and
30 given her information about their schools campaign and they met with one of Liz
31 Truss's special advisors. There's nothing problematic about that, is there?

32 A. Just a point of clarification or ignorance; I actually don't know if it was our freedom
33 of information request or somebody else's; I don't know about that. It doesn't strike
34 me as the sort of thing we would have done but I may not know and, as you say,
35 meeting with ministers or advisors to lobby is part of what some groups do and,

1 indeed, part of what some charities do.

2 Q. And do you, do it?

3 A. Yes, but not as much as we'd like, as I said, but we try to engage in the public
4 discourse and policy debates in different ways and, certainly, not by putting things
5 on the side of vans.

6 Q. Okay. Just, please, if I can ask you, on the next paragraph – or, the next section,
7 which is, the “transing away of the gay”, yes? I just want to take you to one
8 document, please, if I may? That's at volume. 2.2.

9 A. Yes.

10 Q. And this – I beg your pardon, 1536, I'm sorry.

11 A. That's all right.

12 Q. 1536-

13 A. Yes-

14 Q. - do you have that?

15 A. Got it.

16 Q. You are familiar with this?

17 A. Yes, I'm familiar with this Times investigation, yes.

18 Q. The Times investigation. Staff spoken to – whistle blowers, yes? You can see the
19 headline, “It Feels Like Conversion Therapy for Gay Children say Clinicians” – lots
20 of gay people turning up as trans and asserting that they are in the – if not in the
21 wrong body if they are of the opposite gender or sex, however one expresses it. So,
22 the fact that there are concerns about this doesn't have no evidential basis. You can
23 remind yourself of this article, if you like; we've looked at it several times; page
24 1538, for example. 1538 – a quick way through it. Do you have that? If you look
25 at the first three paragraphs, it gives you a flavour.

26 A. Yes – I'm – I'm familiar with this. I mean, I have to say, this is a – a Times
27 investigation-

28 Q. Yes, of course, and they spoke to a number of clinical staff and that's what they
29 discovered from them – that's what they learnt from them and it's not at all
30 problematic to be troubled by that, is it?

31 A. To be troubled by?

32 Q. The fact there appears to be clinicians in GIDS who are saying, “We are being
33 presented with a lot of gay children and they appear to be moving onto the trans
34 pathway because they are gay not because”-

35 A. They're trans?

1 Q. Yes?

2 A. Yes, if-

3 Q. Conversion therapy for gay children?

4 A. So, clearly, anybody would be very concerned if that is what was going on. I have
5 to say, I do not put much worth by a newspaper investigation and I'd also just like to
6 point out, again, that this expression "transing away the gay" is deeply offensive
7 because it speaks to praying away the gay; a horribly homophobic idea and I can't
8 imagine what we're doing in 2022 considering aligning this; it makes me feel very
9 uncomfortable.

10 Q. Well, we're aligning with this because there are a disproportionate number of
11 lesbians – young girls going to GIDS and presenting as trans which might put them
12 on a pathway and become locked in to a medical pathway that could cause some
13 harm; that's why we're there.

14 A. So, as I say, the idea that one is locked in is a mis-statement, as far as I understand it
15 and from the evidence we see, we know that one doesn't have to stay in the pathway
16 and we should acknowledge that these lesbian girls might be trans. This is the most
17 likely explanation for why one is at a transgender clinic because you don't get there
18 overnight. I mean, it's not easy. The – the – and believing what kids say is a good
19 opening position.

20 Q. Right, and now if I can just ask you, please, about the next set of concerns you have-

21 A. Yes?

22 Q. - this, too, is about the suggestion that, perhaps – merely, about the suggestion about
23 de-transition rates and whether or not children might be put on the pathway – the
24 wrong pathway, yes?

25 A. What page are we on, please?

26 Q. We're on – in your witness statement, at page 133-

27 A. Yes-

28 Q. - at paragraph 38-

29 A. Yes-

30 Q. - but it's, perhaps, easiest to pick it up where you deal with them all in one place-

31 A. I do; 43, I think.

32 Q. 43 – so, if we could pick it up there. No, I think we will have to pick it up at 38 as
33 well. You don't deal with that one there. So, this is about de-transitioning and you're
34 concerned that LGB Alliance are suggesting that children might be being pushed into
35 medical treatment with minimal safeguards, yes?

1 A. Yes, that's our concern.

2 Q. That's the concern and their concern is, "There is an affirmation, non-exploratory
3 approach to these lesbian children – and that's our concern"-

4 A. To these trans children.

5 Q. And if we can look, please, at paragraph 38. You refer to a report or an article that
6 indicates that there are, I think, nothing to be too much worried about, about puberty
7 blockers – I'm summarising it a bit casually, I think but we're looking at puberty
8 blockers there, do you see?

9 A. Which – sorry, which part are you referring to?

10 Q. Paragraph 38-

11 A. Yes?

12 Q. - you're looking at here – if you look about halfway down-

13 A. Yes?

14 Q. - "The BBC reported that fewer than half of patients referred to the Tavistock have
15 had any interventions at all"-

16 A. Yes.

17 Q. - so, you needn't be too – you're challenging LGB Alliance's concerns about that
18 and then, a study published by Tavistock, "Short Term Outcomes of Pubertal
19 Suppression in a Selected Cohort of 12- to 15-Year-Old People with Persistent
20 Gender Dysphoria in the UK" recorded 43 of 44 prescribed puberty blockers went
21 into the next stage – cross-sex hormones and benefitted from that", yes?

22 A. Yes, as we were talking about before lunch, indicating that the clinicians are, by and
23 large, understanding and diagnosing the children correctly.

24 Q. And I've already raised with you the fact that, actually, what that might mean is that
25 children are getting locked in to a treatment pathway. Yes?

26 **Pause.**

27 Q. Okay, well, let's move, anyway, to the article. Page 1084.

28 A. I think this is the article referred to there.

29 Q. This is the article referred to there and there are, as you've said, there are 43 of
30 44 people – yes?

31 A. Yes.

32 Q. So, a very small cohort, yes?

33 A. Yes.

34 Q. And, although you say to us that this is positive evidence that there is some success
35 in relation to puberty blockers, it's a more mixed picture, isn't it?

1 A. I don't know, is it? Why?

2 Q. Just above “Conclusions” – the last set of – the last sentence under “Results” – “Most
3 participants reported positive or a mixture of positive and negative life changes”-

4 A. Yes-

5 Q. - “anticipated adverse events were common”.

6 A. Yes, so, as I’ve mentioned, I’m no clinician but I strongly suspect that “anticipated
7 adverse events were common”, relates to headaches or other side effects of the drug.
8 I don't know but that would be what I would assume that means.

9 Q. Well, you put it in there; so, that’s why I’m asking you?

10 A. Well, I didn’t write this academic paper, obviously, so, just to make that clear;
11 anticipated adverse events of a medical trial would be all manner of anticipated
12 adverse events so, the – perhaps, the only relevance of the things you mention were
13 that “most participants reported positive or a mixture of positive and negative life
14 changes”.

15 Q. And if we can look at the next article that you refer to-

16 A. Yes?

17 Q. - I’m mindful that you’ve indicated you’re not a medical expert and so on-

18 A. No-

19 Q. - but I’m asking you these because you rely on this to show there was good evidence,
20 okay?

21 A. That’s fine. Please continue.

22 Q. And if – please tell me not to ask you if you think it’s – 1094 – if you think I’m
23 asking you anything unfair, please, don’t – please feel quite free to tell me if it’s not
24 something you can help with. This is an analysis of all applications for gender
25 reassignment surgery in Sweden, yes?

26 A. Yes, over a 50-year period.

27 Q. Over a 50-year period and this article is concerned, isn’t it, with legal de-transition?
28 Yes? Yes?

29 A. I think – I think – as I recall, that's right.

30 Q. So, we’re not concerned with medical or social-

31 A. Or social-

32 Q. - de-transition; we’re concerned with somebody changing their mind about the
33 equivalent of a gender recognition certificate.

34 A. The thing is, I don't actually know, in Sweden, if – when you say the “equivalent of
35 a gender recognition certificate” what the legal set up is but I recall this paper is about

1 legal things so-

2 Q. Well, that doesn't really help us, does it?

3 A. Well, potentially, not but I don't think we should draw false equivalences about the
4 legal set up.

5 Q. That's quite right. We don't know how easy or difficult it is to change one's legal
6 sex in Sweden and so, it really doesn't help us very much on the de-transition
7 question, does it?

8 A. No, and as I've said, I mean, luckily, the evidence base is gradually building although
9 some of the points you've made, I definitely think are valid about the long-term time
10 horizon and so forth.

11 Q. 1105 – so, your next-

12 JUDGE GRIFFIN: Can we just pause there, Ms Monaghan. Page 1098 says – at the top of
13 the left-hand column that the National Board of Health and Welfare also handles
14 applications for reversal to the original sex in cases that regret – which they term
15 “Regret Applications” – so, there is a little in there. I do not know whether Dr Bell
16 would like to refresh her memory from that at all?

17 A. I suppose the point I was trying to make is, knowing, as I do, the vast majority of
18 trans people in the UK don't make a legal transition, partly because it's so difficult,
19 that it's – it's definitely plausible that this is somehow a sub-set of trans people in
20 general but I don't dismiss this paper because it's 50 years' worth of evidence,
21 although it's still only a total of 700 people. I've included it in my evidence – in my
22 witness statement for that reason.

23 Q. Thank you. 1105 is your next article.

24 A. Yes?

25 Q. And this shows a low level of de-transition. So, it supports your belief, if I can put
26 it like that, that there are generally low transition rates – de-transition rates, forgive
27 me, yes?

28 A. Yes.

29 MR GIBBON: Sorry, what is that page number again?

30 MS MONAGHAN: Sorry, it's 1105 and it's a US research piece, isn't it? Well, perhaps-

31 A. It's a US – but I don't know – I think the data sets are global, though.

32 Q. Right. And that has been the subject – I'm not a statistician; I'm not a clinician but
33 it has been subject to a good deal of criticism, hasn't it?

34 A. I don't know.

35 Q. Okay, well, let's just have a look at page 3075 in bundle 2.4. Now, it may be you

1 can't help us-

2 A. 3075? Mine are like 1600 – oh, it's there, sorry, sorry.

3 Q. It's got, confusingly, different page numbers.

4 A. Yes. "At what point does incompetence become fraud?"

5 Q. And this is a – I don't know if you've seen this?

6 A. No.

7 Q. Well, this is a critique about the quality of the research and the paper itself. Turn
8 over the page; now, I'm not asking you to analyse the data; I can't, but I'm merely
9 making the point that there is very little evidence and even of that evidence, it's
10 controversial.

11 JUDGE NEVILLE: Sorry, Ms Monaghan, I cannot see from this document what it is. I do
12 not know where it is from.

13 MS MONAGHAN: I beg your pardon, it's a further paper critiquing the paper that we've
14 just looked at.

15 JUDGE NEVILLE: At 3075?

16 MS MONAGHAN: Yes.

17 A. So, I'm looking at a blog, not a paper.

18 Q. Well, a blog. A blog.

19 JUDGE NEVILLE: Oh, I see. So, it is not an academic paper?

20 MS MONAGHAN: No.

21 JUDGE NEVILLE: It is from a blog.

22 MS MONAGHAN: No, no-

23 JUDGE NEVILLE: Do we know which blog? Because I mean, you understand my point;
24 it is just sitting in the bundle as a piece of text by someone. Yes, well, I am sure
25 there are answers to those questions; I would just like to know them.

26 MS MONAGHAN: I will ask my witness to give evidence about it. If necessary-

27 JUDGE NEVILLE: It may be cross-referenced in that witness statement-

28 MS MONAGHAN: It is, yes.

29 JUDGE NEVILLE: All right, thank you.

30 MS MONAGHAN: It is, sir.

31 JUDGE NEVILLE: As long as we know it is somewhere, there, that is fine. Thank you.

32 MS MONAGHAN: So, our witness will deal with that as well but I think it's just to make
33 the point, there is little evidence and what there is, is controversial?

34 A. I'm sorry; as I said, I am not an academic who works in this field but I do work at a
35 university and I am an academic and the idea that – that this – this blog or whatever

1 it is, should be taken at the same level as a peer-reviewed meta-analysis is a
2 misunderstanding of how evidence and data works.

3 Q. Okay. Then, I've just got a few questions, really, about your – what you regard as
4 attack – particular attacks on Mermaids.

5 A. Mm-hmm.

6 Q. Yes? And most of these are tweets, is that right? Well, let's have a look. Page 138
7 – 138 – do you see that? Paragraph 52 onwards.

8 A. Yes.

9 Q. 52 onwards, 137, 138 – tweets at the top?

10 A. Yes.

11 Q. 2020 – we've got five tweets, yes?

12 A. Yes.

13 Q. Five tweets; three of them two and a half years ago. One in October last year and
14 one in January.

15 A. Yes. Remember, the witness statement was written in January, so.

16 Q. Yes, and where, particularly, do we see Mermaids being – we see Mermaids on
17 5 May at number one-

18 A. Yes.

19 Q. - where else do we need to be concerned about?

20 A. Well, as I made the case, at this point, in paragraph 52, that the false statements about
21 Mermaids, sometimes by name and sometimes with allusions to the gender identity
22 lobby and in that first tweet on page 138, you see Mermaids listed there alongside
23 other groups which – although it's not in front of me, I know the LGB Alliance have
24 previously called – said that Mermaids is part of this lobby. So, therefore, other
25 references to the gender identity lobby, we can take to be – particularly about trans
26 kids, to be looking at us or talking to us.

27 Q. Well-

28 A. And, again, I mean, in (IV), you know, we are an LGBTQ group so, that's about us.

29 Q. And then, the next series of tweets-

30 A. Yes?

31 Q. - which you refer to, are under (b) on the same page – it accuses Mermaids of
32 promoting gender reassignment surgery and then, at (I) "Its schools campaign
33 website prominently displays Mermaids' name; lobbies hard for the lowering of age
34 limits for children seeking untested puberty blocking". Do you advocate for puberty
35 blocking medication to be available for young children?

1 A. Well, puberty blocking medication, by definition, has to be used before puberty,
2 otherwise, it can't block puberty. So, for people who are not familiar with the field,
3 I know it can seem really surprising that you are talking about a child who is 10 or
4 11 or 12 or whatever but that is, sort of, how puberty blocking works; it needs to be
5 before puberty. Again, I'm not a clinician. So, however, I wouldn't say that we lobby
6 hard for it and I don't know what evidence there might be for that. We listen to the
7 voices of thousands of kids and trans kids and people have been stuck in this pathway
8 to trying to get medical support for years and years and years and we also look around
9 the world where these medications are commonly and uncontroversially used.
10 And, can I add, the second part of that tweet there, which is so offensive, "Some see
11 as promoting the drug treatment and surgery for gender diverse children as a form of
12 child abuse" – so, ignore the absurdity about the child abuse accusation but we do
13 not lobby for surgery for children. Trans children in the United Kingdom cannot
14 have surgery. There is no surgery available for children and to be giving the
15 impression in the public domain that that happens is deeply unfortunate because it
16 misleads people into thinking that organisations like Mermaids or, indeed, GIDS, are
17 operating on children. This does not happen. It cannot happen at all in the UK and
18 it's hard for me to believe that that's an oversight when somebody tweets somebody
19 who works in this field, claiming that we advocate for surgery. It's hard for me to
20 believe that that's an oversight. It's a clear untruth.

21 Q. And then, your next series of tweets; there's eight and I – you help me-

22 A. Sorry, are we still on page 139?

23 Q. We're on 139, yes, and we've got eight tweets there and you refer, in one of those
24 tweets, to LGB Alliance stating it and I think the others were from LGB Alliance,
25 weren't they?

26 A. So, I know there's been some discussion at the beginning of this case about the
27 trustees of LGB Alliance and who the respondent and all the rest of it is. I don't think
28 there's any doubt that Allison Bailey and Malcolm Clarke are part of the
29 LGB Alliance family, whatever that means – whether or not they work there or are
30 directors or whatever else.

31 Q. And the, over the page, at 142-

32 A. 142 or 140?

33 Q. 142 – sorry, I've moved forward two pages.

34 A. Yes.

35 Q. I'm trying to – there are bits I'm going to skip, I'm afraid – 142 – again, a list of

1 tweets-

2 A. Mm-hmm.

3 Q. - seven tweets now and they are 2020, 2020, 2020, 2020 and 2021. So, most of them
4 are between – nearly or two years old, yes? So, they’re old tweets, except for one,
5 which is December 2021?

6 A. So, just to be clear, these are not all tweets. One of them is a letter to The Times and
7 one of them is the website of LGB Alliance-

8 Q. Yes, you are quite right, sorry.

9 A. And – but yes, you are right, obviously. I mean, I’m assuming we’re right about the
10 dates that we’ve put them in and I would remind you that this statement was written
11 in January of this year or last year, actually – at the end of last year.

12 Q. And-

13 A. But also, I think, perhaps, what you may be trying to say is that the LGB Alliance
14 has moderated its language somewhat since becoming a charity and I think that’s
15 likely to be true.

16 Q. And then, just finishing off, then, if I may, two last matters; first of all, you talk about
17 what Mermaids has done with its charitable status-

18 A. Do you mean the LGB Alliance?

19 Q. Sorry, forgive me, LGB Alliance. LGB Alliance – it’s the heat, like you, no doubt –
20 LGB Alliance and what they’ve done with their charitable status and if you could
21 look at paragraph 61, please-

22 A. Mm-hmm.

23 Q. “A charitable status is, therefore, allowing LGB Alliance to increase its funding,
24 expand its reach and pursue its activities more effectively, given that one of its
25 primary activities is seeking to stop Mermaids’ work and destroy its reputation.
26 Sources of funding has had a direct impact on us”. Yes? Well, first of all, just in
27 general terms, increasing their activities, their reach and pursuing its activities more
28 effectively – ordinarily, that would be a positive thing for a charity, wouldn't it?

29 A. Absolutely. Ordinarily. In this case, their activities – as we don’t seem to have really
30 come onto – but their activities are, you know, largely denigrating trans people and,
31 unfortunately, in particular, trans children.

32 Q. Right, and the only thing you are able to draw on, to help us with that are the contents
33 of your statement – well, the answers to the questions today?

34 A. The only things I’m able to draw on?

35 Q. The only thing – the only – in asking us to conclude that they are anti-trans or their

1 concerns about children or their concerns about you – the only things you have to
2 draw on – that we have to draw on, are those matters in your statement and those
3 matters in your evidence today – documents that you've referred to?

4 A. Yes, I'm not bringing any more evidence. This is – we've got enough, I think.

5 Q. Right. And, finally, then, if I may, just one last question; because it's not in your
6 witness statement, I don't think – and that's your grounds of appeal. If I can ask you,
7 please, to go to the core bundle. It probably is one – number one – I'm using the
8 name core bundle. It's volume one – in fact, it's the volume your witness statement
9 was in.

10 A. The small one, yes.

11 Q. Yes, absolutely. Page 43. Sorry, if you want to locate yourself, it's page 38, at the
12 beginning.

13 A. Oh – sorry, it's page 43 or page 38?

14 Q. Just to help you place yourself – page 38 – do you see the “Grounds of Appeal” – do
15 you see that?

16 A. Right, yes.

17 Q. And, no doubt, you will have had to have signed those off?

18 A. At the time, yes, yes.

19 Q. And, there was one matter that drew our attention to. You will see, at paragraph – at
20 page 43, there is a heading, “Standing”-

21 A. Yes.

22 Q. - and that's to – you'll understand, I'm sure, that's because you need to identify the
23 fact that you have been affected by the decision, in legal terms?

24 A. Yes.

25 Q. Yes, and one of the reasons that you give is that paragraph 14.2-

26 A. Yes?

27 Q. “Unless the decision is quashed, Mermaids is likely to suffer financial loss in that it
28 may find itself competing with LGB Alliance for donations from the public and
29 grant-making bodies, even though they shouldn't be registered as a charity”-

30 A. Mm-hmm.

31 Q. That's one of your reasons, yes?

32 A. Mm-hmm.

33 Q. Not the only one but that is one of them. And can we summarise that by saying that
34 you think if LGB Alliance stay a charity, people might prefer to donate to them than
35 to you?

1 A. Funny enough, I read that no so much as – as the – as the public – as the grant-making
2 bodies. I think it's – I don't think the same person who is a member of the public
3 would be choosing between the two of us. That feels an unlikely proposition.
4 However, in the public at large, can be put off donating to Mermaids by the – the
5 stuff that LGB Alliance put into the public domain about us. And then, in grant-
6 making bodies, if they have limited programmes for LGBT stuff, which they often
7 do then, there's a restriction; you've got a limited pie there.

8 Q. And they might prefer to give it to LGB Alliance than Mermaids?

9 A. It might – it's hard to imagine but it might fit better within their charitable priorities
10 of a foundation of some sort.

11 Q. Thank you. Those are all my questions, madam, unless there anything that I can
12 assist you with?

13 JUDGE GRIFFIN: No, I do not think so; I am just going to check, Dr Bell, whether there
14 are going to be any other questions for you and how long that might take and then,
15 we will see whether to take a break now, because it is getting increasingly warm in
16 here or whether we can finish your evidence fairly swiftly and then, we will take a
17 break, once I have been able to release you.

18 A. Sure.

19 JUDGE GRIFFIN: So, Mr Steele? No questions? Thank you. Mr Gibbon, have you got
20 much?

21 MR GIBBON: Just one question, which is very short.

22 Re-Examination by MR GIBBON KC

23 Q. That relates, Dr Bell, to a question you were asked this morning in relation to the
24 Cass report and GIDS more generally-

25 A. Mm-hmm.

26 Q. - and you used the phrase "The system is not working" and it wasn't clear to me
27 precisely what you were referring to. Perhaps you could explain – you used the
28 phrase "The system isn't working" – what you meant?

29 A. Sure, I mean – I think I may have been, actually, making a broader point about the
30 system as in, the NHS isn't working; child and adolescent mental health services are
31 not working; social work is in collapse. So, from my understanding of the stories we
32 hear on our helplines of the trans kids' journeys, they try to get to a GP, in itself,
33 sometimes a challenge these days and then, GPs sometimes don't have the
34 knowledge oof where to refer them or the understanding and so, sometimes, they can
35 then be referred straight to GIDS, as I understand it, but sometimes, they get referred

1 through a CAMHS – the child and adolescent mental health route which takes more
2 time and then, they come back to GIDS.

3 And, throughout this time, children who have got other challenges alongside their
4 gender identity issues, that is – you know, the resources are not there to support kids
5 adequately enough.

6 Q. Thank you. I have no further questions.

7 JUDGE NEVILLE: I pause to clarify something; it may be more for Ms Monaghan than Dr
8 Bell; when cross-examining about the Cass report, you were putting certain
9 paragraphs and you said about the belief of practitioners and I may be mis-
10 remembering the words here – and then, Dr Bell said that you had transposed the
11 word “position” for “belief” – and you dealt with that and I made a note but then,
12 later on, in cross-examination, you put another point to Dr Bell and she said, “Well,
13 they didn’t use that word”, and you replied, “They did use ‘belief’” and I felt, well,
14 hang on, that is not what I noted down earlier on-

15 MS MONAGHAN: There were two-

16 JUDGE NEVILLE: So, it was put to-

17 A. It was in a different paragraph-

18 MS MONAGHAN: It was in a different paragraph.

19 JUDGE NEVILLE: Right, excellent. Can you just tell me where it was, roughly?

20 MS MONAGHAN: Yes-

21 JUDGE NEVILLE: You can tell me later, if you like; I do not need to know now.

22 MS MONAGHAN: Can I do it when we come back?

23 JUDGE NEVILLE: Yes, absolutely. Absolutely. Yes.

24 MS MONAGHAN: Just because I’m sitting here searching through but I can – there were
25 two paragraphs, one was “position” and one was “belief”.

26 JUDGE NEVILLE: Oh, no, that is useful.

27 MS MONAGHAN: And I can see Mr Gibbon nodding so, I-

28 MR GIBBON: I accept that.

29 JUDGE NEVILLE: Oh, no, that is very helpful, thank you.

30 MS MONAGHAN: But I can give you the page number anyway.

31 JUDGE NEVILLE: Yes, that can wait.

32 JUDGE GRIFFIN: Thank you.

33 **Witness Dr Belinda Bell released.**

34 JUDGE GRIFFIN: We will take a short break now. It has also occurred to me that we did
35 ask for a copy of the Genderbread diagram yesterday which I do not think we have

1 received. Yes, it certainly has not reached me.

2 **Discussion *sotto voce*.**

3 JUDGE GRIFFIN: All right, well, perhaps you could investigate that.

4 MS MONAGHAN: All right.

5 JUDGE GRIFFIN: Thank you very much. We will take 10 minutes.

6 **Court rises.**

7 **Court resumes.**

8 JUDGE GRIFFIN: I will just say for the record that, obviously, Dr Bell is formally released.

9 MS MONAGHAN: May I just deal quickly with the reference point?

10 JUDGE NEVILLE: Oh, thank you, yes?

11 MS MONAGHAN: The “position” was at paragraph 1.7 at 1882 – paragraph 1.7, page 1882.

12 JUDGE NEVILLE: Sorry, just give me one moment.

13 MS MONAGHAN: Certainly.

14 JUDGE NEVILLE: Sorry, “position” was?

15 MS MONAGHAN: At paragraph 1.7-

16 JUDGE NEVILLE: Yes?

17 MS MONAGHAN: Page 1882. So, that was “professionals, experience and position on this
18 spectrum may determine their approach”.

19 JUDGE NEVILLE: Yes.

20 MS MONAGHAN: And then, at page 1894 – paragraph 2.16, that’s when Dr Cass says,
21 “Views will be influenced by how each individual weighs the balance of factors that
22 may lead to gender incongruence and the stress that may accompany it. Beliefs about
23 whether it might be inherent, immutable, and so on”, etc.

24 JUDGE NEVILLE: Thank you.

25 JUDGE GRIFFIN: Oh, Ms Reindorf is now back with us.

26 MS REINDORF: Yes, thank you-

27 MS MONAGHAN: And it’s now for us to call our witness, thank you. And, I now call Bev
28 Jackson.

29 WITNESS EVIDENCE OF MS BEV JACKSON

30 Examination-in-Chief by MS MONAGHAN KC

31 Q. When you have got a moment, Ms Jackson, can you pick out the file number one and
32 turn to page 162, please? Do you have that?

33 A. Yes.

34 Q. And you will see that’s a statement that appears to be in your own name.

35 A. Yes.

1 Q. And, if we go to the end of your statement, which is at page 215 – is that your
2 signature there?

3 A. It is.

4 Q. And can you confirm to us that the contents of that statement are true?

5 A. They are.

6 Q. To the best of your knowledge and belief?

7 A. Yes.

8 Q. Thank you.

9 A. Thank you.

10 Q. I have no supplementary questions, madam.

11 JUDGE GRIFFIN: Thank you very much. Mr Gibbon?

12 MR GIBBON: Thank you.

13 Cross-Examination by MR GIBBON KC

14 Q. Good afternoon, Ms Jackson.

15 A. Good afternoon.

16 Q. I'm going to start just by asking a question about terminology but before I do that,
17 my voice slipped a bit low a few times earlier in the hearing. If you can't hear me,
18 do say and I will try-

19 A. Thank you, I will, yes.

20 Q. - try and lift my voice.

21 JUDGE NEVILLE: Mr Gibbon, are you close to a green light microphone?

22 MR GIBBON: I'll bring it a bit closer.

23 JUDGE NEVILLE: Yes.

24 Q. So, this is a case in which terminology can be contentious and gender critical isn't a
25 term that's really defined anywhere. But I'd just like to explore the meaning of that
26 with you, briefly. In your statement, at page 165, at 3F, you've helpfully set out how
27 you use the term, "Gender critical refers to the belief that there are two sexes; male
28 and female and that sex is immutable. This is sometimes referred by opponents as
29 anti-trans but I do not believe that it is. It simply recognises my assertion of the
30 biological fact of human sex". And that appears to coincide or substantially coincide
31 with the definition given by Dr Bell and I was just going to show you-

32 THE CLERK: Sorry to interrupt again. Mr Gibbon, we can't seem to hear you properly.

33 JUDGE GRIFFIN: Hello, on the link-

34 THE CLERK: I am not sure if his microphone is working.

35 JUDGE GRIFFIN: Hello, Mr Noah?

1 THE CLERK: Yes?

2 JUDGE GRIFFIN: I think we can hear you.

3 THE CLERK: Yes, so-

4 JUDGE GRIFFIN: Were you meaning to – did you need us?

5 THE CLERK: Yes, yes, we can't hear Mr Gibbon properly. I am not sure if the microphone
6 is working.

7 JUDGE GRIFFIN: Is there a green light on it?

8 MR GIBBON: It's gone.

9 JUDGE GRIFFIN: All right, the green light on the microphone seems to have gone off. Do
10 you know how to fix it?

11 **Pause.**

12 JUDGE GRIFFIN: Ms Monaghan, can we move yours along, if it will stretch that far? Just
13 for now. And I am sure that if you needed to intervene, the witness's microphone
14 will probably pick up that intervention.

15 **Discussion sotto voce.**

16 MR GIBBON: This one definitely has a green light.

17 JUDGE GRIFFIN: Excellent. Would you like to just try again and we will check with the
18 clerk at the other end of the link that he can hear you.

19 MR GIBBON: Mr Noah?

20 JUDGE GRIFFIN: Mr Noah.

21 MR GIBBON: Mr Noah, can you hear me?

22 THE CLERK: Yes, I can hear you much better now. Okay.

23 JUDGE GRIFFIN: Thank you very much, Mr Noah. We will continue. Please let us know
24 if there are any other problems.

25 THE CLERK: Okay.

26 MR GIBBON: The microphone is slightly further away but I'll bring it a little bit closer but
27 I'll also try and keep my voice up as well. Ms Jackson, apologies for that; if I can
28 ask you, within the same bundle, to turn to tab 22 at page 126-

29 A. Yes, I'm there.

30 Q. You're ahead of me, then; paragraph 13. And what Dr Bell said there was,
31 "Mermaids always understood that LGB Alliance was formed as part of the wider
32 gender critical movement. My understanding of the expression 'gender critical' is
33 that it refers to a belief that sex is biological, immutable – biologically immutable
34 and that people cannot genuinely transition with the result that, for example, a
35 transwoman is not a woman and is not entitled to be treated as a woman", and does

1 that coincide or substantially coincide with what you said or is there a difference that
2 you'd like to explain?

3 A. Well, this paragraph contains many different points, doesn't it?

4 Q. It does.

5 A. So, "Mermaids understood that LGB Alliance was formed as a part of the wider
6 gender critical movement" is not correct.

7 Q. Apologies, I wasn't asking you about that-

8 A. I see.

9 Q. - that was the introduction-

10 A. Right.

11 Q. - simply focusing on the second sentence.

12 A. Yes, so, "My understanding of the expression 'gender critical' is that it refers to a
13 belief that sex is biologically immutable and that people cannot genuinely transition".
14 I would read that as people cannot change sex. This is why I provided this
15 introduction on terms because the terms "sex" and "gender" unfortunately get
16 muddled up and so, people cannot change sex and that is what I would mean by, they
17 cannot genuinely transition and so, a transwoman, being male, is not a woman and is
18 entitled, under law, in certain circumstances, with a gender recognition certificate, to
19 be treated as what one might call a "legal fiction" as a woman. So, I – there are
20 certain disagreements there.

21 Q. I see; you've got onto the next point I was going to come to but-

22 A. Sorry-

23 Q. - I think we've got, as a starting point, at least, that actually albeit there are many
24 contentious issues, the central understanding of what we mean by gender critical isn't
25 particularly contentious – immutability of sex?

26 A. Yes, I think so.

27 Q. And the point I was going to come to was for people with gender recognition
28 certificates, as you've said, because, of course, that says the person's gender becomes,
29 for all purposes, the acquired gender so that if – if the acquired is the male gender,
30 the person's sex becomes that of a man and if it is the female gender, the person's
31 sex becomes that of a woman. Now, I think from what you've said is, you would
32 draw a distinction between legal sex and what you regard as biological sex?

33 A. Indeed, yes.

34 Q. So, to that extent, you, if you like, quarrel with the language of the legislation but
35 you understand what it's saying?

1 A. Quite.

2 Q. Now, as to gender critical beliefs, generally, I'd like to explore that a little bit further
3 with you as well. Below, if you like, for the headline of "Immutability of Sex",
4 there's no defined set of gender critical beliefs that one has to sign up to, is there?
5 There's no pledge or anything like that?

6 A. Certainly, not. No.

7 Q. So, the essential core is, sex is immutable but presumably, it would be fair to say, to
8 which can be added, all the consequences that an individual, if you like, intellectually
9 feels, inexorably follow from that – that proposition?

10 A. I'm not sure if "intellectually" is the right – it may be-

11 Q. I'll withdraw that; I was trying to use it helpfully but if it's not helpful, it's not
12 helpful. The consequences that flow inexorably from that primary belief, you say,
13 could be part of gender critical – well, they might be regarded as part of gender
14 critical-

15 A. I'm not quite sure what you are asking me.

16 Q. What I'm trying to identify is that, there may be certain things which you regard, and
17 we will explore this, as flowing inexorably from it or is it simply that very high level
18 and the term doesn't extend to anything else?

19 A. I think you'd have to give me an example of what you mean?

20 Q. Well, I will. I will. The particular reason for asking you the question is that, in the
21 Allison Bailey case, which, obviously, you will know very well, the pleaded
22 protected beliefs didn't stop there and they included a belief that Stonewall was
23 homophobic in promoting what was described as "gender theory" – you will recall
24 that part of the debate?

25 A. Yes, in that case, yes.

26 Q. In that case, exactly. Now, obviously, it was held that the full set of Allison Bailey's
27 beliefs were protected in that case and I was going to explore whether the views that
28 were pleaded there were part of being gender critical for you?

29 A. I'm not sure if it's helpful, but-

30 Q. If it's not helpful, it's not helpful. I'll put the material to you; I think Mr Loveday
31 has got a small passage from the case, just to pass up and we've got copies for the
32 tribunal as well.

33 **Pause.**

34 Q. I will say straight away, I am not going to cross-examine you about the law; this is
35 really just to put some points that were put in the case, just to explore what is meant

1 by the terminology. In 279, which is the second page of the extract –
2 “Protection of the Claimant’s Belief” – it says, “The beliefs for which Equality Act
3 protection is claimed are set out in paragraph eight of the further revised amended
4 particulars of claim” and then, “She believed and continues to believe that the first
5 respondents” – that’s obviously Stonewall’s – “campaigning on gender theory is
6 sexist and homophobic. In particular, the claimant believed and believes that a” –
7 this is the core belief, if you like – “that sex is real and observable; gender as
8 proselytised by the first respondent is a subjective identity, immeasurable and
9 observable and with no objective basis” and then, further down, at letter (e) “Gender
10 theory, as proselytised by the first respondent is severely detrimental to lesbians. In
11 reclassifying sex with gender, the first respondent has reclassified homosexuality
12 from same sex attraction to same gender attraction. The result of this is that
13 heterosexual men who identify as transwomen and are sexually attracted to women
14 are to be treated as lesbians. There is, therefore, an encouragement by followers of
15 gender theory, including the first respondent, on lesbians to have sex with male
16 bodied people. To reject this encouragement is to be labelled as bigoted. This is
17 inherently homophobic because it denies the reality and legitimacy of same sex
18 attraction and invites opprobrium and threatening behaviour upon people who
19 recognise the fact, reality and legitimacy”.

20 Just so we that we can finish looking at the bits I was going to show you; a few pages
21 on – I think it’s the back of the clip, you’ll see paragraphs 293 and 294. “We
22 concluded that the claimant’s pleaded beliefs, not just the belief that woman is sex
23 not gender are protected”, and then, in the first sentence at 294, “It should be
24 emphasised that this is not to say the claimant is right”, but the focus – the rest of the
25 focus, obviously, is particular to that case. So, the question is, do you regard the
26 view that gender-based analysis of the world is inherently homophobic? Is that part,
27 to you, or inexorable consequence of, gender critical belief?

28 A. If sexual orientation is based on gender identity, which is a subjective feeling or
29 belief, rather than sex, which is observable and observed, then I believe that that is
30 detrimental to people with same sex sexual orientation and, as such, if expressed in
31 an extreme way, homophobic and when I say “expressed in an extreme way” such as
32 we have seen recently with lesbians being excluded from a Pride march.

33 Q. So, pausing there, it’s a qualification to my proposition, isn’t it? You say it’s not
34 homophobic unless it’s expressed in a certain way; is that what you are saying?

35 A. Well, it is homophobic – it is homophobic to define it in terms of gender identity

1 because it really negates the essence of homosexuality. So, I would have to say it is,
2 in fact, homophobic as soon as you move from material reality sex to subjective
3 perception; you are disadvantaging gays and lesbians in a way that is homophobic.

4 Q. Now, to move on from there, then, you've, obviously, said in your evidence that you
5 don't regard gender critical as anti-trans-

6 A. Correct.

7 Q. You said, "I do not believe that it is". But I suggest to you that it's a matter of
8 perspective, isn't it? You say you don't consider LGB Alliance's stance to be anti-
9 trans but an independent third party who doesn't share gender critical views may well
10 conclude differently.

11 A. I find it profoundly insulting to be called anti-trans or transphobic and, it's a bit of a
12 cliché that I have many trans friends but we do have a growing – small but growing
13 – number of trans people who agree with us and it's simply a nonsense to suggest
14 that basing one's views on objective sex rather than gender identity is anti-trans.
15 Many trans people are very aware of what sex they are.

16 Q. Well, I'll be coming back to this, I suspect but, if you like, one can turn that coin on
17 its head straight away, can't one, because surely, it's the case that somebody may
18 say, "Well, the fact that I'm called a homophobe for having those views, I, too, find
19 profoundly insulting".

20 A. Which views do you mean?

21 Q. Gender critical views because, as you've explained, as I thought, you would regard
22 those views as homophobic for the reasons that you gave.

23 A. I campaigned 50 years ago for people of same sex sexual orientation. If other people
24 choose to try to redefine that, that undoes decades of gay rights activism.

25 Q. I may come back to that but, for the moment, just exploring some definitions. I've
26 used the word "perspective" and on the question of perspective, you notably, in your
27 evidence, at paragraph 130, which is page 202, you begin with, if you like, a
28 perspective-based definition and you say, "From the perspective of LGB Alliance,
29 there is a gender identity lobby and the lobby includes" and you give a long list which
30 includes, amongst others, Mermaids, Stonewall, etc. And, by that phrase, you lump
31 together – you put together the many people and organisations who don't share LGB
32 Alliance's gender critical view on these issues.

33 A. I'm putting together – yes, I agree with you; they are putting together – I am putting
34 together organisations that promote the view that everyone has a gender identity and
35 that is a view that I dispute and that we dispute.

1 Q. And so, when you talk about lobby – it’s not so much that they have a concerted
2 approach; it is the shorthand for all the different institutions who share that view?

3 A. Well, they do sometimes have a concerted approach, as we’ve seen; they band
4 together, sending letters and so forth. So, I’m not sure if that’s always the case.

5 Q. But you've listed a long group of names here. I – obviously, it’s for you to give your
6 evidence. It doesn’t look as though you’re trying to say that they are all controlled
7 together or in concert, necessarily; it’s simply, “These are examples of names which
8 I’ve put within this label”.

9 A. Yes, but it is striking that they all pursue the same agenda and, in fact, when we – if
10 I might recall – when we campaigned against the proposed reforms of the
11 Gender Recognition Act in Scotland, there was a large image – a large image was
12 circulated with some 50 or 55 – I can't remember exactly how many – gender identity
13 organisations that disagreed with us and we were the only organisation that were
14 opposing the reforms. So, in that sense, there are sometimes concerted campaigns.

15 Q. But might that be simply the case that they are responding to what you said rather
16 than that they formed a lobby?

17 A. Well, no, I don't think we have that much power. We’re just a small volunteer group.

18 Q. Let’s move to something you said in paragraph 70, which is found on page 184 of
19 that bundle. You say here, “In his statement, Paul Roberts states that LGB Alliance
20 sometimes goes out of its way to avoid using the word ‘trans’ at all. This is true but
21 that is because our focus is not on trans issues. As set out above, part of the reason
22 for our formation was that trans issues have become conflated with LGB issues which
23 is what we are concerned with. We, therefore, do avoid the word because it can result
24 in LGB issues being overlooked in favour of trans issues which is obstructive to any
25 discussion of LGB rights”. I have read out the whole of it so that we have the full
26 flavour.

27 Now, it’s the case, as a result, therefore, that we are left to deduce what
28 LGB Alliance’s position is on trans issues from what it says about other issues or
29 euphemisms, if I can use that word, like “male-bodied persons” which, presumably,
30 covers both men and trans women, as we would describe them.

31 A. Yes, I mean, it’s unfortunate that we have to use terms like “male bodied persons”
32 because confusion has arisen. Some people would prefer to say “men”. That – of
33 transwomen, we can say transwomen are transwomen. That is our position. We do
34 avoid using the word “trans” and if you say people can infer our position on trans –
35 we are trying to focus on LGB issues and from the beginning – from the very first

1 time we started, people have wanted to know what our position was on trans issues
2 and we have had to explain why we were formed; why, when there are so many
3 LGBTQIA organisations, why it was necessary to form an LGB organisation and we
4 sort of got – it became necessary right from the beginning to address that issue.

5 Q. We have to determine, if you like, the position from an absence, if you like. So, just
6 as in your name, LGB Alliance, it's the absence of the "T" and similarly, when you
7 write or when you speak, it's the absence of the word "trans" that we have to try and
8 discern-

9 A. It's very odd for me to hear that because Stonewall was an LGB organisation until
10 2015. Most of the other organisations around this country, if not in America were
11 LGB for a very, very long time and there is no absence of a "T". We were simply
12 going back to the campaign for same sex sexual orientation which we believe had
13 been abandoned by the groups that had formerly campaigned for those rights and we,
14 at no point, thought, "Let's leave out the T" – I mean, that never occurred to us. We
15 were going to refocus on sexual orientation because that is so different from issues
16 relating to gender identity.

17 Q. But doesn't that come to the same thing because what you've said is, everybody else
18 had moved on, if you like – I characterise; I apologise but, "Everybody else had
19 moved on so, it was important to get back to what Stonewall had been and we do that
20 by saying LGB", but it's the deliberate omission of "T" that makes that clear, isn't
21 it?

22 A. No, I can't accept that. There was no deliberate omission of a "T" or a "Q" or an "I"
23 or an "A" or any other letter. We simply wanted to focus, quite clearly, on sexual
24 orientation and we believe that LGB people who are – sexual orientation is about
25 sexual relationships. It's about who you want to have a loving sexual relationship
26 with and that is a very specific thing; it's got nothing to do with identity and we
27 believe that it's harmful to mix these things up and it's quite clear that it's become
28 so mixed up that we have to keep explaining why it's necessary to disentangle them.
29 Unscrambling the omelette.

30 Q. So, it's here I come back to the point I raised briefly earlier, which is the point that
31 it's profoundly offensive to those LGB people who agree with trans rights but don't
32 share your gender critical views, as well as to trans people, for them to be called
33 homophobes, for taking the view they take.

34 A. Well, firstly – sorry, you said many things there, including the fact that – sorry, could
35 you repeat what you said because there were three different things you said there?

- 1 Q. Yes, I mean, what I said, I hope was to this effect; do you accept that it's profoundly
2 offensive to those LGB people who agree with trans rights but don't share your
3 gender critical views, as well as to trans people whether LGB or not, to be labelled
4 as homophobes?
- 5 A. Firstly, we do agree with trans rights. Trans rights, as established in the Equality Act
6 with the protected characteristic of gender reassignment, are very clear in law and
7 we have made it abundantly clear that we support those trans rights. We do not
8 include in trans rights any right to be recognised as the opposite sex. That is not a
9 right in my view, it's a request or a demand or a petition or something of that kind,
10 and it may very well be that some people are offended by the position that we take,
11 as we are profoundly offended by the suggestion that a male bodied person can be a
12 lesbian. This is profoundly offensive to us. So, I'm not sure how useful it is to pit
13 these – you know, how offensive something is to one person and to another person
14 how useful it is; we are all pursuing genuine charitable objectives.
- 15 Q. It's useful to this extent, because transphobic – when that phrase is used, it's about a
16 particular group of people who have been very marginalised over many years; LGB
17 people being called homophobes – that is to call the very essence of their identity
18 into question, isn't it?
- 19 A. Well, as someone who is Jewish and has been called anti-Semitic, I'm well aware
20 that peculiar labels are attached to people at times and that it can be very hurtful but
21 I have to tell the truth as I see it and as I've studied it and I regret if some of the
22 things I believe and say offend others but I have to stand up for the people who are
23 offended in different ways and that is, at this moment of time, more difficult. And,
24 I do think that if we are going to talk about a marginalised section of society, I would
25 like to say that lesbians are a particularly marginalised group in society and, at this
26 moment, perhaps, more so than trans people.
27 Now, let's – I don't think there's any need to have a competition in that respect but
28 constantly referring to one particular group as a particularly marginalised group, I'm
29 not sure how helpful that is.
- 30 Q. Let's move on a little bit further; the use of the word "homophobe" I would suggest,
31 is a persistent part of LGB Alliance's verbal armoury. I'm going to give you some
32 examples of that. There is a letter found at volume 2.1, page 910-
- 33 A. Sorry?
- 34 Q. Sorry, so volume 2.1, page 910. Did I say 910 or, did I say-
- 35 A. The letter from Taiwo Owatemi?

- 1 Q. Yes, that's right. I was just going to use that as a springboard because there is a
2 response – there is an open letter from you, as you will recall-
- 3 A. Yes.
- 4 Q. - do you see that letter? And it's one you sign as – I don't need to show you this but
5 you signed it as “Co-founder LGB Alliance”. If I ask you to turn to page 912, your
6 second numbered paragraph, by all means read it to yourself to remind yourself; I
7 was just going to pick it up towards the end where it says, “Nowadays, new style
8 homophobes from within the LGBTQ+ movement say exactly the same thing” –
9 going back to 30 years ago – “that lesbians should consider having sex with lesbians
10 who have a penis – that is men – are we saying that all the LGBTQ+ groups around
11 the country are essentially now homophobic? That is precisely what we are saying”.
- 12 A. Yes, I thought a long time before writing that. I was thinking of my own experience
13 in the 1970s when men used to say, with a wry kind of humour, “I feel like a lesbian
14 inside”, and, as a joke, it wasn't very funny and that today, people within the
15 LGBTQ+ movement are saying that it is possible for people with a penis to be a
16 lesbian and not only that, but excluding actual lesbians from Pride and, not only that,
17 but when those lesbians then decide to go on their own march, demonstrating against
18 that. Lesbians are being excluded from this supposedly inclusive movement and I
19 do think that is profoundly homophobic.
- 20 Q. And it's fair to say, in your statement, you don't resile from it in any way; you say it
21 is sadly an accurate description-
- 22 A. Very sadly, yes. We would rather not have had to form, to be quite honest.
- 23 Q. Now, while we were – while we are in your letter to Taiwo Owatemi, if I can ask you
24 to turn to page 913, and at the top of the page, there's a paragraph numbered five and
25 you say, “The Shadow Minister” – obviously, that's Ms Owatemi, “writes that we
26 oppose LGBT+ inclusive education. Of course, we welcome good RSE education
27 that teaches children about gay and straight relationships – about the changes in
28 puberty and also teaches them to be tolerant of people who are different. What we
29 oppose is teaching children that everyone has a different identity that may differ from
30 their birth sex. This, again, enforces a false and harmful notion that it is possible to
31 be born in the wrong body”.
- 32 So, in the context of education, your position is to put your views, isn't it? It's to
33 propagate your views that gender critical is the right approach; it's set and
34 immutable?
- 35 A. I wouldn't say that at all. I would say that our approach to RSE, as all education,

- 1 should be that education must be based on facts and sex – sexual reproduction and
2 the fact that some people are gay and other people are straight and some children will
3 have gay parents and other children will be growing up in different circumstances;
4 these are facts. It is not a fact that everyone has a gender identity. I mean, we hear,
5 and this is just anecdotal, of children coming home in great distress; saying, “Am I
6 going to turn into a girl overnight?” because this is a boy up to age 10 who is feminine
7 in some way and feeling distressed at the thought that he might change into a girl.
8 We do not think that it is right to teach children – teach boys that they might really
9 be girls or girls that they might really be boys. Those are not facts.
- 10 Q. So, two things from that. As you've said, that's anecdotal. There is no particular
11 evidence on it beyond the anecdote and the second thing, as you said, is that it's about
12 facts but your perception of fact, and it's central to your perception of facts is that
13 sex is immutable?
- 14 A. Yes, but it's a very well-established biological fact. I don't really think I need to
15 emphasise that.
- 16 Q. Well, but, exactly – you – that's your perspective and that's what you think should
17 be part of education; it's putting that fact, as you see it, forward.
- 18 A. Well, it's difficult for me. I mean, yes.
- 19 Q. Just going back to your statement, if we may, to paragraph 15, which is found on
20 page 168 – just picking up in the second sentence, you state that, “LGBTQ+ groups
21 serve the interests of TQ+ people who assert that their sexual orientation is based on
22 gender identity”. Now, just to ask you the question, why should LGBTQ+ groups
23 be so narrowly defined? Why shouldn't it be that they serve LGB people who stand
24 in solidarity with trans rights?
- 25 A. I think I say so in that sentence. TQ+ people and those LGB people who assert that
26 their sexual orientation is based on gender identity.
- 27 Q. But it's more than that. They don't have to have that view, do they? As long as they
28 stand with people who have trans rights; it goes further-
- 29 A. As I've said, I don't dispute trans rights. I'm not a – I support trans rights so, I'm not
30 sure what you are asking?
- 31 Q. Well, it's the limited way it's phrased. It asserts there, a sexual orientation is based
32 on gender identity. Why should they assert that at all to be served by LGBTQ+
33 groups? Why should it be limited to people who make an assertion?
- 34 A. Perhaps, it was a poor choice of words and I should have said “believe”.
- 35 Q. Well, that raises a similar question; why should it be those who believe that sexual

1 orientation is based on gender identity? They may simply have no strong view on
2 the subject-

3 A. Or, they may not dare to disagree; unfortunately, we encounter that very frequently.

4 Q. Well, that's a different point, isn't it, because what we're talking about is who the
5 community is that these organisations serve so, it's not people who feel browbeaten
6 into refusing to challenge the orthodox; it's just people who are happy.

7 A. I wouldn't choose the word "browbeaten" but we encounter every single day, we
8 receive messages from people who say that they agree with us but they are unable to
9 speak out. So, it's a very considerable problem, unfortunately. So, I wouldn't say
10 "browbeaten" is the right word but it's certainly true that many, many, many more
11 people agree with us than may appear from public discourse.

12 Q. But, there's no objective way of-

13 A. Not yet but that's one of the things that we particularly intend to research.

14 Q. Can I ask you to turn to bundle 2.1, please? And within that, page 917. Have you
15 got that page?

16 A. Yes, thank you.

17 Q. So, there are some tweets there. It's – the middle of the page – it's from
18 LGB Alliance, "You may not realise that this debate is not only about accepting male
19 bodied people in women's toilets but about lesbians being told it's mandatory to
20 accept male bodied people in their dating pool, otherwise they are transphobic".
21 Now, we would say that's a focus by LGB Alliance on trans issues which we say is
22 central to what you do as an organisation and it's also, I suggest, a typical over-
23 statement of the position. Do you accept either of those points?

24 A. No. I'm saying that if we – an example was given yesterday that if a lesbian says
25 she is only attracted to other biological women on a dating – a lesbian dating site –
26 and is thrown off, that is a lesbian issue and if you look at it from the side of trans
27 people, you may think it's a trans issue and you may say she is transphobic but that
28 is just not the way from our point of view. It's a different perspective. We look at it
29 from the point of view of lesbian rights and we don't like to be called transphobic
30 because we are not.

31 Q. So, that deals with the first of my two points. Just, on the second point, lesbians
32 being told it's mandatory to accept male bodied people in their dating pool; that's an
33 over-statement, isn't it?

34 A. It depends what you mean by "dating pool". As I say, given the example of a lesbian
35 dating site, there are multiple examples of lesbian dating sites not being willing to

1 accept a lesbian saying that she is only attracted to other biological women. So, I am
2 using “dating pool” there rather loosely.

3 Q. Two things, if I may add to that; first – is there evidence of multiple dating sites, in
4 the papers that we have, taking that view?

5 A. I’m not sure; maybe not.

6 Q. And, secondly, it’s looking at the language – this debate is not only about women’s
7 toilets but about lesbians being told it’s mandatory. It’s put much higher, isn’t it?

8 A. Sorry, what are you asking?

9 Q. It’s put much higher than it need be. It’s a typical – we would say, a typical over-
10 statement-

11 A. No, it’s – I don’t agree. It’s not an over-statement. It’s shifting the emphasis. I think
12 that the general public began to become aware that focusing on gender identity was
13 causing disadvantages to women some years ago in women’s sports and in women’s
14 prisons and rape shelters and so on. The realisation that it’s also affecting LGB
15 people was quite slow to develop so, what I’m saying here is, this not only about
16 women’s issues of women’s toilets and so forth; it’s also about LGB rights and,
17 particularly, lesbian rights who have been the most disadvantaged by this shift.

18 Q. If I can, perhaps, approach it from a different angle. Mr Roberts had said in his
19 evidence, “It’s not the objective of any organisation to place pressure on anyone to
20 sleep with trans people or anyone else”, do you accept that?

21 A. Yes.

22 Q. So, it’s in the context of accepting that, it seems strange to say it’s mandatory –
23 mandatory to accept male bodied people in their dating pool?

24 A. But as I explained before, if you say a lesbian may not say, “I only wish to date with
25 other biological women” – if you say such a statement is inadmissible on a lesbian
26 dating site then, you are saying it is mandatory to accept male bodied people on that
27 dating site. So, I don’t really see that it’s an over-statement at all.

28 Q. Within the same bundle, if we can go to page 920 – so, this is LGB Alliance
29 responding to a tweet, I think, by Merseyside Police LGBT+ which simply says,
30 “Where being you is not for debate or discussion”. And the response from
31 LGB Alliance is, “Please note @MerseysidePolice that tweets like this bring your
32 force into disrepute. This is a political position that opposes the sex-based rights of
33 LGB people and women”. You see trans rights as in political conflict with LGB
34 rights, don’t you?

35 A. No. No, that’s not what this is about. This is about the branding within the police

1 and using the so-called progress flag which, I'm afraid I don't see as progress but
2 that's beside the point – you quoted it saying, “Where being you is not for debate or
3 discussion. Transtopia”. I don't think it is for the police to engage in controversial
4 social issues of this kind when it is very clear that standing up for the rights of the
5 people who focus on gender identity are being promoted while the rights of people
6 whose sexual orientation is based on sex are being vilified. The police should not
7 take a position in that kind of controversy and conflict.

8 Indeed, it's the failure to understand that there is a conflict which has caused much
9 of this. Once you acknowledge, “Oh, there's a conflict between gender identity and
10 sex; let's talk about it”, then, you can start to move forward.

11 Q. So, to adopt your words, in tweeting like that, you are engaged in controversial social
12 issues of this kind yourself, aren't you?

13 A. I'm pointing out-

14 Q. You're engaging in it.

15 A. Well, I'm – I'm pointing out that the police are taking a biased view of an important
16 social issue and I think that since – this is in the interests of promoting gay and
17 lesbian and bisexual rights in that we do not think it's helpful for the police to take a
18 view which, in our view, is detrimental to our rights.

19 Q. So, again, coming back to it, I would suggest that's you being engaged in the way
20 I've just asked you.

21 A. Engaged in promoting the values that our organisation is involved in which is,
22 promoting the rights of LGB people.

23 Q. Well, the phrase I used was, “engaged in controversial and social issues of this kind”,
24 because that was the phrase that you used about the police-

25 A. Yes, sure-

26 Q. - when you made your viewpoint-

27 A. Mm-hmm.

28 Q. So, it follows that you are taking that contrary viewpoint is engaging-

29 A. Yes, but I'm not the police. I have a particular duty to the people that we represent
30 whereas the police should represent the whole community.

31 MR GIBBON: Madam, I'm just about to move onto a different topic.

32 JUDGE GRIFFIN: That would be a convenient moment, you think?

33 MR GIBBON: It might be a convenient moment. I anticipate that, taking all the witnesses
34 of LGB Alliance will take until the end of tomorrow – bearing in mind, they're my
35 notes. If the tribunal is to direct that I definitely start my submissions the day after,

1 that would allow me to focus entirely on what I can do to make tomorrow more
2 efficient. If I dive into submissions straight away after cross-examination-

3 JUDGE GRIFFIN: That would be your submissions on Thursday?

4 MR GIBBON: Yes.

5 JUDGE GRIFFIN: For approximately half a day?

6 MR GIBBON: I think longer than that but to a degree, that may help because, obviously,
7 I'll be opening certain of the authorities which other people, therefore, will be able
8 to, perhaps, refer to more briefly afterwards. So, the original proposed timetable
9 you've seen but, bearing in mind the position we're in now, I think, realistically, I
10 think close of tomorrow is going to be where I should be aiming for with the cross-
11 examination finishing.

12 JUDGE GRIFFIN: We cannot see any problem with indicating that we will hear
13 submissions starting on Thursday, rather than tomorrow.

14 MR GIBBON: That's very helpful.

15 JUDGE GRIFFIN: I think that will help everybody to take stock on Wednesday in any
16 event.

17 MR GIBBON: Indeed.

18 JUDGE GRIFFIN: So, that is a convenient moment to finish for today and, Ms Monaghan,
19 you look like you want to say something?

20 MS MONAGHAN: Just – Ms Reindorf asks me to ask, could she join by CVP tomorrow.
21 She has to deal with a matter at home which may mean she can't come in. I could
22 drop you a line and – I'm just raising that-

23 JUDGE GRIFFIN: I am sure that is not a problem. Mr Noah, can you hear me? Maybe
24 not. Mr Noah? I shall just leave it there. I will sort it out behind the scenes,
25 Ms Reindorf, if you would write to the tribunal and I will warn them that that is what
26 is happening. We will have to make the technological arrangements for you to be
27 able to join-

28 THE CLERK: Sorry, I was on mute on the attendees list as well. Yes, I can hear you.

29 JUDGE GRIFFIN: It happens to the best of us, Mr Noah, do not worry.

30 THE CLERK: Yes.

31 JUDGE GRIFFIN: Can we have a discussion, you and I, when we break in a moment, about
32 the technological steps that I would like to be taken to allow Ms Reindorf to appear
33 by CVP tomorrow?

34 THE CLERK: Yes, yes.

35 JUDGE GRIFFIN: Thank you very much. I do not have a problem with that.

1 **Discussion *sotto voce*.**

2 JUDGE GRIFFIN: Was there anything else? Mr Steele, was there anything from you? No?

3 I am afraid that that leaves you in the hot seat overnight. I am sorry about that but
4 there does not seem to be any alternative, given the indication from Mr Gibbon that
5 it is going to take some time tomorrow to finish your evidence. I know you
6 understand that it is very important that you do not talk to anybody overnight about
7 your evidence. I can see you nodding and that you do understand-

8 A. I do understand.

9 JUDGE GRIFFIN: - what I am saying. All right, we will sit again at 10.00 tomorrow
10 morning. Thank you.

11 **Court rises.**

12

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