Statement on Supreme Court Decision and Reinstatement of pause on Gender Affirming Care

What was the decision?

Yesterday, the Supreme Court found that the way the Government instituted its pause on gender affirming care through the public system was **unlawful**. LGBTI Legal Service, acting for the young person and their parent, argued that the decision was unlawful because it was an improper exercise of power by the Director-General of Queensland Health.

The Supreme Court found that the decision was unlawful because the Director-General was **required to consult** Hospital and Health Services before making a decision.

Justice Callaghan found that the **22-minute Teams meeting** which occurred minutes before the announcement was made

had every hallmark of an occasion convened for the [government] to announce that the directive was "what is going to be done"

His Honour also noted that the challenge would have succeeded on the basis that the decision was made at the direction of the Health Minister and/or Cabinet and because it **took into account irrelevant information**, being the opinion of the Health Minister and Cabinet

We thank our client and their mother for their bravery and tenacity in fighting for their access to healthcare.

What happens now?

We hoped the government would engage in meaningful consultation with parents, children and medical experts to inform a health-based decision.

Instead, the Health Minister made a Ministerial Direction **under a different power**, which allows the Minister to make a direction if it is necessary in the public interest. The Ministerial Direction **reinstated the pause on gender affirming care** in the same terms as the previous Health Services Directive, stating that it was 'necessary in the public interest'. We are reviewing the Direction and exploring options of behalf of our clients.

The new direction means that the pause on gender affirming care through the public system **remains in place**.

What’s next?

Despite the new direction, the decision was a significant win for the rule of law. It demonstrated that the government cannot make decisions about healthcare without due process.

The LGBTI Legal Service **will continue** to explore all legal options on behalf of our clients to **support trans and gender diverse young people** to access the life-affirming healthcare they need.

In the words of our client, ‘**our kids are not political footballs**.’

For all media enquiries, please contact Ren Shike at president@lgbtilegalservice.org.