



JUDICIARY OF
ENGLAND AND WALES

**R (on the application of) Quincy Bell and A v Tavistock and Portman NHS Trust and others
[2020] EWHC 3274(Admin)**

1 December 2020

SUMMARY

Judges: Dame Victoria Sharp P., Lord Justice Lewis, Mrs Justice Lieven

1. This claim for judicial review concerned the lawfulness of the practice of the Tavistock and Portman NHS Trust, through its Gender Identity Development Service (GIDS) of prescribing puberty-suppressing drugs to children who experience gender dysphoria. Gender dysphoria is a condition where persons experience distress because of a mismatch between their perceived identity and their natal sex, that is, their sex at birth. Such persons have a strong desire to live according to their perceived identity rather than their natal sex. The puberty blocking drugs were prescribed to children as young as 10 to halt the process of puberty, that is the biological processes that would otherwise occur and would lead to the development of the primary and secondary sexual characteristics.

2. There were two claimants. Quincy Bell was born a female and, at about the age of 15, was prescribed puberty-blocking drugs to halt the process of developing female sexual characteristics. She eventually transitioned to a male having taken cross-sex hormones to promote male characteristics and then undergoing surgery. A is the mother of a 15 year old girl. A is concerned that her daughter may be referred to the Gender Identity Development Service and may be prescribed puberty blockers. The claimants contended that the practice of prescribing puberty-blocking drugs to children under 18 was unlawful as they lacked competence to give valid consent to the treatment.

3. The court in this case was concerned with the legal requirements for obtaining consent for the carrying out of medical treatment. The court was not concerned with deciding whether there were benefits or disbenefits in treating children with gender dysphoria with puberty blocking drugs. The legal issue in the case concerned identifying the circumstances in which a child was competent as a matter of law to give valid consent to treatment.

4. The court held that in order for a child to be competent to give valid consent the child would have to understand, retain and weigh the following information: (i) the immediate consequences of the treatment in physical and psychological terms; (ii) the fact that the vast majority of patients taking puberty blocking drugs proceed to taking cross-sex hormones and are, therefore, a pathway to much greater medical

interventions; (iii) the relationship between taking cross-sex hormones and subsequent surgery, with the implications of such surgery; (iv) the fact that cross-sex hormones may well lead to a loss of fertility; (v) the impact of cross-sex hormones on sexual function; (vi) the impact that taking this step on this treatment pathway may have on future and life-long relationships; (vii) the unknown physical consequences of taking puberty blocking drugs; and (viii) the fact that the evidence base for this treatment is as yet highly uncertain.

5. The court considered that it was highly unlikely that a child aged 13 or under would be competent to give consent to the administration of puberty blockers. It was also doubtful that a child aged 14 or 15 could understand and weigh the long-term risks and consequences of the administration of puberty blocking drugs.

6. In respect of young persons aged 16 and over, the legal position is that there is a statutory presumption that they have the ability to consent to medical treatment. Given the long-term consequences of the clinical interventions at issue in this case, and given that the treatment is as yet innovative and experimental, the court recognised that clinicians may well regard these as cases where the authorisation of the court should be sought before starting treatment with puberty blocking drugs.

7. The court has granted a declaration to reflect the points on which the application succeeded.

NOTE: This summary is provided to assist in understanding the Divisional Court's decision. It does not form part of the reasons for the decision. The full judgment of the Divisional Court is the only authoritative document. Judgments are public documents and are publicly available. A copy of the judgment in final form as handed down can be made available after 10.30am on 1 December 2020 on request by email to the administrativecourtoffice.listoffice@hmcts.x.gsi.gov.uk