

Comments by **Sarah Williams, Legal Director and Head of Surrogacy, Adoption, Fertility and Modern Family at Payne Hicks Beach**, originally published by The Times online on 1 December 2020 and reproduced with kind permission

<https://www.thetimes.co.uk/article/landmark-ruling-makes-it-harder-for-children-to-get-sex-change-drugs-8830h3hnc>

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# Landmark ruling restricts puberty blockers for children



Keira Bell outside the Royal Courts of Justice following the judges' decision

SAM TOBIN/PA

Children will find it harder to obtain puberty blockers and other medication during treatment to change gender after a landmark ruling.

Judges at the High Court found that it was “highly unlikely” or doubtful that children under 16 could understand the full implications of starting hormone treatments.

These treatments may lead to life-changing consequences, such as the loss of fertility or impaired sexual function later in life.

Keira Bell, 23, a woman who regrets starting puberty blockers at the age of 16, brought the legal action against the Tavistock and Portman NHS Trust, which runs the country's only gender identity development service (GIDS) for children.

The GIDS clinic, also known as the Tavistock, has seen an exodus of staff who have expressed concern that vulnerable transgender youngsters were being set on an irreversible clinical pathway, without sufficient investigation of the underlying causes of their distress.

Ms Bell said she was “delighted” with the judgment, which she hoped would protect young people from making decisions they may regret.

The court was asked to decide whether under-16s could give informed consent before beginning on the clinical pathway.

It decided they could not. It ruled that 16-18 year olds should be presumed to have the ability to consent, but even in these cases, it was in the interests of clinicians, as well as those looking for treatment, to seek authorisation of the courts if they wanted to avoid being sued in the future.

The ruling means that clinicians who continue to prescribe puberty blockers to young people without the authorisation of the courts will be more vulnerable to accusations of clinical negligence from people who may regret the treatment later.

Speaking outside the Royal Courts of Justice after the ruling, Ms Bell said: “It was a judgment that will protect vulnerable young people. I wish it had been made before I embarked on the devastating experiment of puberty blockers. My life would be very different today.”

She added that the ruling “exposes a complacent and dangerous culture at the heart of the national centre responsible for treating children and young people with gender dysphoria”.

The legal challenge was also brought by Mrs A, the mother of a 16-year-old autistic girl, who is on the waiting list for treatment.

In a statement read out on Mrs A’s behalf, she said: “I hope this judgment will provide a safety net to prevent the unsupervised medical experimentation on children, like my daughter, by an institution charged with helping to alleviate her distress.”

Paul Conrathe, the pair’s solicitor, described the “historic judgment” as “a damning

indictment of clinical practice at the Tavistock”.

He said: “Ironically — and as matter of serious concern — despite its international reputation for mental health work, this judgment powerfully shows that a culture of unreality has become embedded in the Tavistock.

“This may have led to hundreds of children receiving this experimental treatment without their properly informed consent.”

The case considered written evidence from a variety of experts on the issue of gender dysphoria and a number of individuals who have been treated or are still being treated with puberty blockers.

The court heard that 26 of the 161 children who were referred to the clinic in 2019/2020 were 13 or younger; 95 of them were under 15. Some had been on puberty blockers for five years, from the age of ten.

In 2009, only 97 children and young people were referred. In 2018 that number was 2,519, a disproportionate amount of girls and young women.

The trust had argued that it would be an intrusion on a young person’s autonomy to restrict access to the drugs. However, the judges rejected this: “In principle, a young person’s autonomy should be protected and supported. However, it is precisely the role of the court to protect children, and particularly vulnerable children’s best interests.”

At a brief hearing today, the court refused the Tavistock and Portman NHS Trust’s application for permission to appeal against the ruling.

But the court gave the trust until December 22 to apply directly to the Court of Appeal and, in a statement after the ruling, a spokesman confirmed that the trust would seek permission to appeal against the judgment.

A spokesman for the trust said it was “disappointed” by the judgment. “Our first duty is to our patients, particularly those currently receiving hormone blocking treatment, and we are working with our partners, University College London Hospitals NHS Foundation Trust and Leeds Teaching Hospitals NHS Trust, to provide support for patients concerned about the impact on their care.”

Susan Evans, who was previously employed by the Tavistock as a psychiatric nurse, said she hoped the ruling would “change their attitude” at the trust.

She said she hoped it would put the brakes on the “at times quick process towards a medicalised treatment” and “allow more time for assessment and psychological treatments for young people”.

The ruling was praised for providing “clarity” by some legal experts.

Sarah Williams, legal director at law firm Payne Hicks Beach, said: “This ruling provides much needed clarity on the capacity of a child to provide valid consent to innovative and experimental medical treatments which could result in infertility or impaired sexual function.

“Today the court has shone the light on a murky area of the law. Not only will parents find this ruling reassuring, but clinicians should too. This will provide a welcome safeguard.”

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