

# English Court Blocks Puberty Blockers in Anti-Trans Craze Judgment

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In the [far-reaching](#) and [immediately impactful](#) judicial review decision of [Bell and A v The Tavistock and Portman NHS Foundation Trust](#), the English High Court conflates puberty blockers and medical transition and decides puberty blockers should not be available to trans youth under the age of 16. The court gives the reason that puberty blockers ‘lead down a pathway to medical transition’ which can have some irreversible effects. According to the court, young persons under the age of 16 cannot appreciate the significance of these potential, and potentially irreversible effects in the areas of sexual functioning and fertility. Better then, is the court’s logic, to let them experience the irreversible effects of puberty.

As was argued by the Tavistock, which runs the [Gender Identity Development Service](#) (GIDS), the only [National Health Service](#) (NHS) gender clinic for youth in England and Wales, puberty blockers alone are accepted to have no known negative side-effects and their intended effects are beneficial, temporary and reversible. Medical research has shown that puberty blockers significantly reduce suicidal ideation in trans youth ([Turban et al, 2020](#)). In England and Wales, medical transition through gender-affirming hormones (sometimes described as cross-sex hormones) is already only available to over 16s, and surgery only to adults – through the NHS’s Gender Dysphoria Clinics. The three treatment processes, which are described in the decision in some detail, are unique and subject to separate decision-making processes (para. 40 of the judgment). Banning an innocuous, reversible treatment for under-16s because a treatment which is, and will remain, available only to *over-16s* may have irreversible effects that an *under-16* might not be able to appreciate, exposes the flawed logic of the court and leaves the decision wide open to appeal.

At the heart of the decision lay the question of who is ‘competent’ to decide a course of medical treatment. In all areas of healthcare, the NHS deploys a test called the ‘Gillick Competence test’ for deciding under 16’s capacity to make informed decisions regarding their own treatment. The Court found that trans youth are highly unlikely to be *Gillick* competent, and accordingly put itself in charge of making complex medical decisions, instead of trusting the agreement on a course of treatment reached between the young person, their parents and a team of physicians and counsellors. The decision may well have repercussions beyond the current area of trans healthcare.

The decision puts [trans children’s lives at risk](#) and only makes eventual transition much more invasive. The court showed itself to be persuaded by one of the interveners in the case, ‘[Transgender Trend](#)’, an anti-trans organisation, which believes young people are being pushed to transition as part of a media-fuelled craze, and distributes anti-trans info packs among schools. The court also cited

a plethora of outlier 'experts' included in the claimants' evidence, many of whom have made anti-trans statements in public and some of whom are [linked to the US Christian-right](#).

## Judicial review and the arguments

The case was brought by Bell (the claimant's name is listed as Quincy although Bell uses Keira in the media), now 23, who regrets her medical transition, and 'Mrs A'. The court decision tells the story of how as a young teenager Bell sought treatment from the GIDS. The GIDS discouraged Bell from taking steps to transition but this only solidified her objective which was to get testosterone. At Bell's request and with parental support, at 16 she was prescribed puberty blockers, and started on Testosterone at 17. At 20 Bell had a double mastectomy. Now 23 Bell belongs to the less than [0.5 percent who regret their transition](#), and she has gone to court to challenge the prescription of puberty blockers to *all* trans teenagers.

The second claimant is Mrs A, parent of a 15-year-old trans teenager diagnosed with autism whom Mrs A wants to prevent from accessing puberty blockers. Since the teenager is not a GIDS client, and the GIDS would not refer someone for puberty blockers without parental consent, such access is out of the question. The court concedes that Mrs A's interest in the legal action is 'therefore largely theoretical' (para. 89). Mrs. A's participation plays into the common transphobic trope that the [coincidence of autism spectrum conditions among youth with gender dysphoria](#) explains why 'transgenderism' is [merely a teenage craze](#) – as the second interveners believe – and transition a mere placebo for complex mental health issues.

The claim is a judicial review of the practice of the Tavistock and Portman NHS Trust, through its GIDS and the first and second interveners (UCL and Leeds NHS Trusts, the two hospitals that the GIDS works with) of prescribing puberty suppressing drugs to persons under the age of 18 who experience gender dysphoria (para. 2). The legal action, brought by two individuals in the form of a judicial review of a general practice by a public body, is therefore *intended* to affect a whole class of people.

The court discusses the GIDS practice in detail, citing evidence submitted by the clinicians involved, including the information the GIDS provides to young people during the several appointments that precede any treatment plan. Like all clinicians, when assessing a young person's capacity to make decisions on their own medical treatment, GIDS teams use what is known as the 'Gillick competence test'. This test hails from the 1986 House of Lords case of [Gillick v West Norfolk NHS Trust](#), the unsuccessful case by activist and campaigner Victoria Gillick, who challenged the right of under-16s to be offered the contraceptive pill. A 'Gillick competent' child is one who has "enough understanding to make up their own mind about the benefits and risks of treatment." The court in *Bell* limited its decision to under-16s because 16- and 17-year olds are by law [considered competent](#).

By raising a presumption against Gillick competence in the case of trans children seeking puberty blockers, the court effectively renders illegal the GIDS' clinical teams' use of the Gillick procedure to assess an under-16-year-old's competence. It also decided that under-16s as a rule cannot give informed consent to puberty blockers. This is because, in the court's view, they cannot understand the potential long-term effects of *medical transition*.

The question before the court in fact only concerns the provision of puberty blockers and not medical transition. Puberty blockers serve to give a young person some time to reflect on their gender identity and consider any next steps and their effects are temporary – normal puberty follows when blockers are stopped. Gender-affirming hormones (like testosterone and oestrogen) and surgery (together: medical transition) are subject to an entirely separate assessment carried out by the UCL and Leeds Hospitals' teams and the adult Gender Dysphoria Clinics, and are never offered by the NHS to youth under 16. Despite the extensive evidence provided by the GIDS', UCL's and Leeds' clinicians of their separate assessment processes, the court conflates the three, barring access to puberty blockers, seemingly so as to deter take-up of medical transition.

The notion (commonly cited in anti-trans publications and suggested by the claimants and their counsel) that 'scores of children' are [seduced by the internet](#) to believe they are trans and handed life-altering medication 'like it is candy' before being sent down a transition pathway is simply not supported by the facts. Even before *Bell*, there were considerable constraints on access to gender-affirming healthcare for young people. The average waiting time for the initial GIDS appointment is 22-26 months (pre-COVID) and in some cases young people wait up to four years. It takes between 3-6 appointments for assessment, involving social workers, family therapists, psychiatrists, psychologists, psychotherapists, paediatric and adolescent endocrinologists and clinical nurse practitioners, over at least 6 months, before a care plan is agreed with the young person and their family. Only if the young person is Gillick competent, has parental/guardian support, and fulfils other strict criteria will they be referred to the UCL or Leeds NHS Trusts for consultation and/or physical assessment with an endocrinologist to decide if puberty blockers may be appropriate.

The court sides with the claimants despite the GIDS' numbers painting a different picture. In 2019/20, 95 young persons under the age of 16 were referred by GIDS to the UCL and Leeds NHS Trusts' endocrinologists for puberty blockers (para. 29). If we compare this (something the court neglects to do) to the number of young people referred to GIDS, which was 2519 in 2018 (para. 31), we see that contrary to the claim of 'scores' this is an extremely low number, especially if we take into consideration that the GIDS serves the entirety of England & Wales.

The fact that most GIDS clients who take puberty blockers after some time (usually years) move to taking gender-affirming hormones is taken by the claimants – and the court – to mean that hormone blockers send young people down an inexorable path of medical transition. A more likely explanation is that the numbers rather speak to the thorough job the GIDS do to ensure that *only* those young people who are certain of their gender identity are prescribed blockers. Transition regret, as

noted above, is extremely rare and although it is a serious and difficult issue for the individual involved, this should not be used to seek to deny that treatment to others.

## The impact and appeal

Following the decision, the GIDS has effectively [suspended treatment](#) for all its patients under 16. This means that trans teenagers now face the immediate prospect of going into puberty. Apart from being extremely distressing for young trans people, puberty produces the need for further, more invasive medical treatment in the future (e.g. top surgery) or may produce changes to the body that are irreversible (e.g. deepening of the voice) which may worsen dysphoria throughout a person's life. The alternative for trans youth and their families – if they have the means – to purchase medication privately or online without being certain of its source or quality and without appropriate guidance.

The court's decision adds a considerable delay and cost to treatment, for both patients, for the Courts and for the NHS. It further deepens the [inequality in access](#) to trans healthcare. It demands that young people prove their identity to a court, a demand that in 2017 was already recognised as unnecessarily increasing mental health risks by an Australian [decision](#) which removed court authorisation for youth access to gender-affirming hormones. [Mermaids](#), which supports trans children and young people, and many other organisations such as [Gendered Intelligence](#) and [Think2Speak](#) have pointed out the dangers of this decision and published guidance for trans young people and their parents/carers. [Stonewall](#) has pointed out that the court's judgment does not reflect international best practice in the care of trans youth, The World Professional Association for Transgender Health (WPATH) Standards of Care, and the Endocrine Society's Guidelines, and that experts around the world have called for the decision to be overturned.

The 2020 High Court decision comes in the midst of an increasingly hostile environment for trans people in the UK, where the government recently chose to ignore its consultation on reform of the Gender Recognition Act because it did not like the fact that [respondents overwhelmingly favoured gender self-determination](#).

The courts might see this decision and others (like trans-dad [Freddy McConnell's case](#)) as a way to push back against a perceived “wave of transgenderism”. But young people will continue to assert gender self-determination, trans youth will continue to take steps to transition, trans people are not going away. These efforts to “stem the tide” are punitive, they are cruel, and they will ultimately be [ineffective](#). The question is how many young lives will be harmed in the process. The Tavistock was [granted leave to appeal](#), and hearings will take place by 22 March. [The Good Law Project](#) intends to intervene alongside many trans organisations.

