

Puberty blockers updated: court judgment overturned.

On my website in March 2021

<https://secureservercdn.net/160.153.137.163/o7r.7ac.myftpupload.com/wp-content/uploads/2021/03/202103-Puberty-blockers.pdf>

I quoted from the High Court Judgment in the case of Quincy Bell and Mrs A against The Tavistock and Portman NHS Foundation Trust (Case No: CO/60/2020)

<https://www.judiciary.uk/wp-content/uploads/2020/12/Bell-v-Tavistock-Judgment.pdf>

The Judgment found that a child under 16 was too young to consent to the Tavistock Clinic giving them puberty blockers as a holding stage / step along the road to their having a sex change operation after 16.

In September 2021, the Court of Appeal (Appeal No. C1/2020/2142) overturned that decision. Their judgment is published here:

<https://www.judiciary.uk/wp-content/uploads/2021/09/Bell-v-Tavistock-judgment-170921.pdf>

The Court of Appeal decided that it is not for the courts to set the rules for the age of consent to be given puberty blockers. They referred to the landmark “Gillick” case, (*Gillick v. West Norfolk and Wisbech Health Authority 1986*), which had said that doctors can decide to prescribe contraceptives to children under the age of 16 without the consent of their parents. Therefore, doctors, not the courts, should decide the age a particular child can understand the implications of taking puberty blockers, and so be able to give informed consent:

“93. The service specification and SOP [Standard Operating Procedure] provide much guidance to the multi-disciplinary teams of clinicians. Those clinicians must satisfy themselves that the child and parents appreciate the short and long-term implications of the treatment upon which the child is embarking. So much is uncontroversial. But it is for the clinicians to exercise their judgement knowing how important it is that consent is properly obtained according to the particular individual circumstances, as envisaged by *Gillick* itself, and by reference to developing understanding in this difficult and controversial area. The clinicians are subject to professional regulation and oversight. The parties showed us an example of a Care Quality Commission report in January 2021 critical of GIDS [Gender Identity Development Service], including in relation to aspects of obtaining consent before referral by Tavistock, which illustrate that. The fact that the report concluded that Tavistock had, in certain respects, fallen short of the standard expected in its application of the service specification does not affect the lawfulness of that specification; and it would not entitle a court to take on the task of the clinician in determining whether a child is or is not *Gillick* competent to be referred on to the Trusts or prescribed puberty blockers by the Trusts.

94. [...] whilst driven by the very best of intentions, the Divisional Court imposed such a restriction through the terms of the declaration itself, by the utilisation of age criteria and by the requirement to make applications to the court. As we have said, applications to the court may well be appropriate in specific difficult cases, but it was not appropriate to give guidance as to when such circumstances might arise.”

October 2021
Adrian Vincent