NHS

This article is more than **1 year old**

# UK court hears children cannot consent to puberty blockers

## NHS trust face legal action over UK's only gender identity development service for children

Keira Bell, outside the Royal Courts of Justice where she is bringing a case against Tavistock and Portman NHS Trust. Photograph: David Levene/The Guardian

The argument that children can give informed consent to the prescription of puberty blockers is a “fairy tale”, the high court has been told.

Keira Bell, a 23-year-old woman who began taking puberty blockers when she was 16 before “detransitioning” in her early 20s, and the mother of a 16-year-old girl with autism who is waiting for treatment are bringing a case against the Tavistock and Portman NHS trust, which runs the UK’s only gender identity development service (GIDS) for children.

On Wednesday, lawyers for the pair, who want puberty blockers prescribed only after a court order, argued that children who had not yet gone through puberty were not able to properly understand the “lifelong medical, psychological and emotional implications” of taking puberty blockers and cross-sex hormones.

Lawyers for the trust argue that the use of puberty blockers is rarely used in children under the age of 13 and is a “safe and reversible treatment with a well-established history”.

At a hearing in London, the pair’s barrister, Jeremy Hyam QC, argued that in 97% of cases the use of puberty blockers in children led to further treatment, and argued that the use of hormone blockers to address gender dysphoria did “not have any adequate base to support it”.

He argued that “the effect of hormone blockers on the intensity, duration and outcome of adolescent development is largely unknown”, adding: “There is evidence that hormone blockers can have significant side-effects, including loss of fertility and sexual function and decreased bone density.”

The idea that young people were fully able to give consent was “simply a fairy tale”, he said. “Nobody could sensibly think that a child of 13 or under who cannot in law give valid consent to sexual acts could possibly give informed consent to treatment of dubious benefits … and lifelong consequences.”

Hyam said the case was focused on whether children could give informed consent to treatment and whether the information given to them is appropriate. “Young and short on relevant life experience, we say there is just no way they can make informed decision about the loss of sexual function,” he said. “It’s just not credible.”

Hyam told the court that referrals to GIDS had gone through a “twentyfold increase”, from 97 in 2009 to 2,590 in 2018, and that the percentage of natal females had increased during that time and made up 76% of cases. The youngest case of a child referred to the Tavistock in April 2020 was 10 while the average age was 15 and four months, he said.

In a statement in the submission, Bell said she had been left with “no breasts, a deep voice, body hair, a beard, affected sexual function and who knows what else that has not been discovered”. She had to live with the fact that if she had children in the future, she would not be able to breastfeed. “I made a brash decision as a teenager (as a lot of teenagers do) trying to find confidence and happiness, except now the rest of my life will be negatively affected,” she said.

Fenella Morris QC, representing the trust, described the argument that children could not give informed consent to being prescribed hormone blockers as “a radical proposition”.

In written submissions, she argued the claimants sought to “impose a blanket exclusion” on children under the age of 18 to being able to consent to medical treatment. Morris said the majority of children referred to GIDS between March 2019 and 2020 were over 12, with only 13 of the children (8%) referred being under the age of 13. The youngest was 10 and three months.

She accepted that the long-term impact of hormone blockers were not fully known -like any drug used for less than 50 years - but argued the use of blockers had been “widely researched and debated for three decades”.

She said the claimants wanted to overhaul the established legal “Gillick competence” test, which states that parents’ right to decide on medical treatment ends “when the child achieves sufficient understanding and intelligence to fully understand what is proposed”. Young people under the age of 16 had to have their parents’ consent for the treatment, she said.

Morris dismissed evidence put forward by the claimants, saying it gave no weight to their assertion that there is a poor evidence base supporting the prescription of puberty blockers, adding: “It is groundless.”

Before treatment young people were made fully aware of the impact of hormone blockers and were “given all the necessary and appropriate information [...] and very considerable support to assist them in their thought processes”, she said.

Far from there being minimal evidence of the benefit of puberty blockers, their use was “the most widely accepted and preferred clinical approach in specialised transgender clinics across the world”, she said.

Last month the NHS launched an independent review of the Gender Identity Development Service for Children and Adolescents, while the Care Quality Commission (CQC) is also due to carry out a separate focused inspection this autumn.

The hearing before Dame Victoria Sharp, Mr Justice Lewis and Mrs Justice Lieven is expected to last two days, with judgment expected at a later date. The hearing continues.

This article was amended on 8 October 2020. Fenella Morris QC did not accept that hormone blockers were “experimental”, but rather accepted that the full long-term impact of hormone blockers were not fully known.

... when I joined Guardian Australia as founding political editor, I wanted to be part of a project that brought a new, independent, fierce and progressive voice to one of the most heavily concentrated media markets in the world.

From the start, we identified issues we felt were underreported and where we thought we could make a difference: the climate emergency, Indigenous affairs, gender equality, welfare policy, the treatment of asylum seekers. Nearly a decade later, and six years after I stepped up to be editor, I believe our reporting is making a difference.

On climate, we have consistently called out inaction and written about how things might be. We have held policy-makers to account and documented how global heating is changing the lives of Australians. We have helped to shift the debate on Indigenous deaths in custody via our years-long Deaths Inside investigation, and produced award-winning coverage of the fight for gender equality.

But the fight for progress continues, and we can't do any of this without the support of our readers. It is your passion, engagement and financial contributions

support of our readers. It is your passion, engagement and financial contributions which underpin our journalism. We have no billionaire owner or shareholders. We are independent, and every dollar we receive is invested back into creating quality journalism that remains free and open for all to read.

If you are able to help with a monthly or single contribution, it will boost our resources and enhance our ability to continue this vital work.

Thank you

**Lenore Taylor**
*Editor, Guardian Australia*

Single | Monthly | Annual

$19 per month | $undefined per month | Other

Continue → Remind me in October VISA mastercard AMERICAN EXPRESS PayPal