



Neutral Citation Number: [2025] EWHC 3114 (Admin)

Case No: AC-2025-CDF-000020

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT IN WALES

Cardiff Civil Justice Centre
2 Park Street
Cardiff CF10 1ET

Date: 25/11/2025

Before :

MRS JUSTICE FARBEY

Between :

THE KING ON THE APPLICATION OF ATB
(BY HIS LITIGATION FRIEND, ATL)

Claimant

- and -

THE WELSH MINISTERS

Defendant

Ms Emma Sutton KC and Mr David C. Gardner (instructed by **Public Law Project**) for the
Claimant

Mr Jonathan Moffett KC (instructed by **Welsh Government Legal Services Department**)
for the **Defendant**

Hearing date: 8 October 2025

Approved Judgment

This judgment was handed down remotely at 4.30pm on Tuesday 25 November 2025 by
circulation to the parties or their representatives by e-mail and by release to the National
Archives.

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REPORTING RESTRICTIONS APPLY

MRS JUSTICE FARBEY :

Introduction

1. The claimant is a child whose identity is the subject of reporting restrictions, and who proceeds by his litigation friend, ATL.
2. By a claim form filed on 17 February 2025, the claimant applied for judicial review, seeking to challenge two sets of regulations made by the Welsh Ministers. The regulations are:
 - i. The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc) (Wales) (Amendment) Regulations 2024. I shall refer to these regulations as “the 2024 Regulations”.
 - ii. The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc) (Wales) (Amendment) (No 2) Regulations 2024. I shall refer to these regulations as “the No 2 Regulations”.
3. By Order dated 25 June 2025, Eyre J refused permission to apply for judicial review on the papers. In relation to the 2024 Regulations, he held that the grounds of challenge were sufficiently arguable for the grant of permission by the “narrowest of margins”. However, he refused permission as the challenge was out of time. In relation to the No 2 Regulations, he held that the challenge was just in time but that it had no real prospect of success.
4. On 8 October 2025, the application for permission was renewed before me at a hearing. Ms Emma Sutton KC appeared for the claimant with Mr David C. Gardner. Mr Jonathan Moffett KC appeared for the Welsh Ministers. At the end of the hearing, I reserved my decision. I now give my decision and reasons.

Summary of the issues

5. Both sets of regulations concern the circumstances in which puberty blockers may be prescribed to children under a general medical services contract between a local health board in Wales and the providers of primary medical services. Puberty blockers are gonadotrophin-releasing hormone (GnRH) analogues. They delay the onset of puberty. In practical terms, the regulations are concerned with the circumstances in which children may be prescribed puberty blockers by GPs.
6. In so far as relevant to the present claim, the practical effect of the 2024 Regulations, as amended by the No 2 Regulations, is that puberty blockers cannot be prescribed to children by GPs – and other medical practitioners working in GP surgeries in Wales – for the purpose of puberty suppression in respect of gender dysphoria or gender incongruence, other than as part of a clinical trial.
7. The claimant does not seek to challenge the merits or underlying policy reasons for the prohibition but rather the decision-making process that preceded the regulations. The claimant contends that, when making the 2024 Regulations and the No 2 Regulations, the Welsh Ministers unlawfully failed to:

- i. Have due regard to the requirements of the United Nations Convention on the Rights of the Child (“UNCRC”), contrary to section 1 of the Rights of Children and Young Persons (Wales) Measure 2011 (“the 2011 Measure”); and
 - ii. Comply with the public sector equality duty (“PSED”), contrary to section 149 of the Equality Act 2010.
8. The Welsh Ministers submit that:
 - i. As regards the 2024 Regulations, the claim is out of time and there is no good reason to extend time under CPR 54.5(1). Permission to apply for judicial review should be refused on grounds of delay. In the alternative, (i) the grounds of challenge relating to the 2024 Regulations are not arguable and (ii) in any event, permission should be refused under section 31(3D) of the Senior Courts Act 1981.
 - ii. As regards the No 2 Regulations, the grounds of challenge are not arguable and, in any event, permission should be refused under section 31(3D).

Legislative background

The Cass Review

9. The 2024 Regulations, and their subsequent amendment by the No 2 Regulations, flow from the Independent Review of Gender Identity Services for Children and Young People. The Review was commissioned by NHS England in 2020. It was chaired by Dr Hilary Cass and is commonly known as the “Cass Review”. Among other subjects, the Cass Review considered the medical interventions for gender incongruence and gender dysphoria, including the use of puberty blockers.
10. As set out in the Methodology section of the Review’s Final Report, the best interests of children were given a primary focus in the Review:

“1.1... The welfare of the child or young person **must remain paramount in all considerations**. At the centre of the Review is a group of children and young people who are seeking support, and our responsibility is to devise a model of care that will **safeguard their best interests** and set each one of them on a pathway that helps them thrive as an individual” (emphasis added).
11. Dr Cass regarded it as essential to hear from a range of people. The Final Report indicates that it was crucial to the Review to hear not only from “the children and young people at the centre of the Review, but also their parents and carers, as well as young adults who have been through gender care in the UK” (Final Report, para 1.1).
12. The Review undertook an extensive programme of engagement that prioritised input from people with relevant lived experience and organisations working with LGBTQ+ youth or children and young people generally. It also prioritised the views of clinicians and other professionals with responsibility for providing care and support to children and young people within specialist gender services and beyond (Final Report, para 1.43).

13. In order that the Review's findings on puberty blockers be founded on robust evidence, Dr Cass commissioned the University of York to undertake independent, peer-reviewed research. Among other things, the University of York reviewed the relevant published evidence (including 50 studies) and undertook a survey of international guidelines on puberty blockers for children. A Clinical Expert Group was established by Dr Cass to help interpret the University's findings which were based on qualitative and quantitative research.
14. In Chapter 14 of the Final Report, the Review set out (among other things) the University of York's conclusions on the risks and intended benefits of puberty blockers. The Review considered the University of York's synthesis of international guidelines and gave specific consideration to guidelines in Belgium, Denmark, Norway, Sweden and Finland. The Review dealt with evidence from the Netherlands. It considered in detail the use of puberty blockers in England.
15. Among other things, the Review concluded that:

14.49 The University of York systematic review **found no evidence that puberty blockers improve body image or dysphoria, and very limited evidence for positive mental health outcomes**, which without a control group could be due to placebo effect or concomitant psychological support.

...

14.51 It is not unexpected that blocking these surges may dampen distress and improve psychological functioning in the short-term in some young people, but this may not be an appropriate response to pubertal discomfort.

14.52 Conversely, **a known side effect of puberty blockers on mood is that it may reduce psychological functioning.**

14.53 The very strongly held beliefs amongst some young people and parents/carers that puberty blockers are highly efficacious may be attributed to a number of factors:

- the support for this position in published papers and from some clinicians working in the field
- signposted information and advice provided to children, young people and their families on the perceived benefits, including on social media
- the fact that puberty blockers have come to be seen as the entry point into and start of a transgender treatment pathway
- **a lack of information about the limitations of the evidence base**
- **the lack of other options offered to address symptoms of distress and bodily discomfort**" (emphasis added).

16. The Review recommended that puberty blockers should generally not be prescribed to children in the context of gender dysphoria or gender incongruence.

Implementation of the Cass Review

17. As I have said, the Review was commissioned by NHS England. The United Kingdom Government took steps to implement its recommendations in England. In May 2024, an Order was made which prohibited the private prescription of puberty blockers (i.e. prescription other than by a practitioner working in the NHS) throughout Great Britain. The Order was made on an emergency basis but was subsequently extended. There is now an indefinite United Kingdom-wide prohibition on the private prescription of puberty blockers.
18. Aside from private medical services, on 29 May 2024, the United Kingdom Government made regulations restricting the prescription of puberty blockers by GPs in England. The restriction came into force on 26 June 2024.

The 2024 Regulations

19. It is not in dispute that the 2024 Regulations implement in Wales the recommendation of the Cass Review about the prescription of puberty blockers to children. The 2024 Regulations achieve this objective by amending the National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc) (Wales) Regulations 2004 (“the Principal Regulations”).
20. The Principal Regulations list the drugs, medicines and other substances that may not be prescribed by GPs to patients in Wales (Principal Regulations, regulation 2). The regulations also list the drugs, medicines and substances that may be prescribed by GPs under restricted conditions only (Principal Regulations, regulation 3). The effect of the 2024 Regulations was to insert into the Principal Regulations a restriction under regulation 3 on the prescribing of puberty blockers to children in a primary care setting, subject to specified exceptions where prescription remained lawful (“the specified exceptions”).
21. The No 2 Regulations were made on 25 October 2024 and came into force on 15 November 2024. On 10 December 2024, there was a Senedd debate on the No 2 Regulations but they remain in force.
22. The No 2 Regulations amended one of the specified exceptions so as to expand the class of persons who are still able to prescribe puberty blockers lawfully. Under the Principal Regulations as they stood before the No 2 Regulations, it remained lawful for a GP to prescribe puberty blockers to a child to whom the GP was providing treatment which did not include treatment for the purpose of puberty suppression in respect of gender dysphoria, gender incongruence or both. However, it was still unlawful for puberty blockers to be prescribed in the same circumstances by others in GPs surgeries, such as nurse practitioners or trainee GPs. This was regarded as an anomaly. By virtue of the No 2 Regulations, these other kinds of primary care practitioners are able to prescribe puberty blockers in the same circumstances and under the same conditions as GPs.
23. Regrettably, officials misunderstood the effect of the No 2 Regulations which were presented to the Welsh Ministers, the Senedd and the public as tightening the

restrictions imposed by the 2024 Regulations when the opposite is true. The Welsh Ministers have apologised to the claimant and to the court for that misunderstanding. The error is incapable of changing the legal effect of the 2024 Regulations or the court's task in these proceedings.

24. Putting all this together (and expressing my gratitude to Mr Moffett for his summary in the Summary Grounds of Defence), the current position in Wales is that puberty blockers cannot be prescribed unless:
- i. The relevant patient is aged 18 or over; or
 - ii. The relevant patient is aged under 18 and is a patient to whom treatment is being provided under a general medical services contract which does not include treatment for the purpose of puberty suppression in respect of gender dysphoria, gender incongruence, or both; or
 - iii. The relevant patient is aged under 18 and either (a) before 19 July 2024, the patient started a course of treatment with puberty blockers for the purpose of puberty suppression in respect of gender dysphoria, gender incongruence, or both; or (b) the patient is being treated for the purpose of puberty suppression in respect of gender dysphoria, gender incongruence, or both, as part of a clinical trial conducted by the National Institute for Health and Care Research.

In addition, a child may be prescribed puberty blockers as part of treatment provided by specialist NHS Gender Identity Development Services. It follows that puberty blockers for children are not banned in Wales but their prescription is subject to restrictions.

Policy objectives

25. The 2024 Regulations (as amended by the No 2 Regulations) satisfy a number of policy objectives, including:
- i. The prevention of the inappropriate prescribing of puberty blockers to children and young people outside holistic gender identity services which are better placed than GPs to provide specialist care and support, thereby improving the effectiveness and safety and of health services, and preventing unnecessary medical interventions.
 - ii. Ensuring that children are treated in the same way in Wales and England, thereby minimising confusion among GPs, pharmacies and patients.
 - iii. Ensuring that GPs in Wales are not made the target of requests for prescriptions as a consequence of the prohibition in England.
26. These objectives are not the subject of challenge in the present claim. As I have mentioned, the claim is about the decision-making process that preceded the 2024 Regulations and the No 2 Regulations. I turn to that process now.

The decision-making process

Ministerial Advice

27. By Ministerial Advice dated 11 June 2024, Welsh Government officials advised the Cabinet Secretary for Health and Social Care on restricting the prescribing of puberty blockers to children and young people by NHS GPs in Wales. The authors of the Ministerial Advice confirmed that officials had considered the Welsh Government's obligations in respect of the UNCRC and the Equality Act 2010. Dealing with those obligations, the Ministerial Advice stated:

“Making these regulations does not change any child or young person's right to access treatment. **They will prevent treatment being initiated inappropriately or unsafely by NHS GPs outside specialist services providing the type of holistic care required by this patient cohort** as recommended by the Cass review. Officials are therefore content there are no issues which need to be addressed in making these regulations” (emphasis added).

28. There is no reason for the court to consider that the Cabinet Secretary, to whom the Ministerial Advice was directed, failed to take the Advice into consideration when deciding to lay the Regulations.

Children's Rights Impact Assessment

29. Section 1 of the Rights of Children and Young Persons (Wales) Measure 2011 (“the 2011 Measure”) provides in so far as relevant that the Welsh Ministers must, when exercising any of their functions, have due regard to the requirements of Part 1 of the UNCRC (“the section 1 duty”). By virtue of section 2 of the 2011 Measure, the Welsh Ministers must make a “children's scheme” setting out the arrangements they have made, or propose to make, for the purpose of securing compliance with the section 1 duty. The relevant scheme for present purposes is the Children's Rights Scheme 2021 (“the 2021 Scheme”).
30. The 2021 Scheme describes a process called a Children's Rights Impact Assessment (“CRIA”) which is part of a process called an Integrated Impact Assessment (“IIA”). Section 3.1 of the Scheme describes the function of a CRIA in the following terms:

“The Integrated Impact Assessment (IIA) allows us to undertake a rounded assessment of the impact of a proposed action, including the social, economic, cultural and environmental effects.

The Children Rights Impact Assessment (CRIA) forms a key part of the IIA, and is the tool officials are expected to use to support Welsh Ministers in ensuring the due regard duty is fulfilled.

The CRIA provides a framework for officials to think about, and record, whether the policy proposals are supporting children and

young people's rights. It enables officials to consider what the policy/legislation/advice is trying to achieve and the impacts that might have (positive and negative) on children with different life experiences.

The CRIA template includes prompts to support officials in their analysis, to evidence that children's rights have been considered and that every opportunity has been taken to identify ways of realising the relevant rights to support Ministers as they take decisions.

The CRIA process is consistent with the UNCRC's requirements as set out in the General Measures of Implementation (Articles 4, 42 and 44(6))."

31. Mr Moffett accepted that there was no CRIA in relation to the 2024 Regulations or the No 2 Regulations.

Engagement provisions

32. The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 ("the 2011 Regulations") create "engagement provisions." Where the duty to engage arises, a public authority "must involve such persons as the authority considers... represent the interests of persons who share one or more of the protected characteristics... and have an interest in the way that the authority carries out its functions" (regulation 5(2)(a)(i) and (ii) of the 2011 Regulations). The same regulation provides that a public authority "may involve such other persons as the authority considers appropriate" and "may consult such persons as the authority considers appropriate" (regulation 5(2)(b) and (c) of the 2011 Regulations).

Other relevant provisions

33. The claimant relies on the following articles of the UNCRC:
- i. Article 3(1) provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
 - ii. Article 12(1) provides that States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
 - iii. Article 24(1) provides that States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.
 - iv. Article 27(1) provides that States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

34. Despite citing and relying on each of these articles of the UNCRC, the substance of the claimant's challenge focused on the best interests principle (Article 3(1)) and failure to engage under the engagement provisions. The claimant seemed to suggest that the engagement provisions reflect the obligations in Article 12. It is not clear what Article 24(1) or Article 27(1) add to the substance of the claim.

35. Section 149 of the Equality Act 2010 establishes the PSED, as follows:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

...

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

...

(7) The relevant protected characteristics are—

age;

disability;

gender reassignment;

pregnancy and maternity;

race;

religion or belief;

sex;

sexual orientation”.

36. On the plain wording of section 149(1), the PSED is a duty to have “due regard” to the specified equality objectives. The PSED and the “due regard” duty have been the subject of repeated consideration by the appellate courts (see, by way of example: *R (Bracking) v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345; *R (Bridges) v Chief Constable of South Wales Police* [2020] EWCA Civ 1058, [2020] 1 W.L.R. 5037; *R (Marouf) v Secretary of State for the Home Department* [2023] UKSC 23). Notwithstanding that the scope of the PSED is well-trodden ground, Ms Sutton maintained that the engagement provisions give rise to an “enhanced” duty in Wales by virtue of the 2011 Regulations.
37. Section 31 of the Senior Courts Act 1981 provides in so far as relevant:
- “(3C) When considering whether to grant leave to make an application for judicial review, the High Court—
- (a) may of its own motion consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and
- (b) must consider that question if the defendant asks it to do so.
- (3D) If, on considering that question, it appears to the High Court to be highly likely that the outcome for the applicant would not have been substantially different, the court must refuse to grant leave.”

Duty to start claim promptly: CPR Part 54

38. Claims for judicial review must be started promptly and in any event not later than three months after the grounds for making the claim first arose: CPR 54.5(1). The primary requirement is to start the claim promptly. Even if the claim has been commenced within three months of the date of the measure challenged, it may still be out of time if the claimant did not start the claim promptly.
39. The requirement on all litigants to be prompt has been recently re-emphasised in *Surrey County Council v The King (on the application of BC)* [2025] EWCA Civ 719:
- “16. ...[I]n a judicial review context, the central importance of acting promptly at all times has been repeatedly restated: see for example *R v Institute of Chartered Accountants in England and Wales Ex Parte Andreou* [1996] 8 Admin LR 557. More recently, the judgment of Carr LJ (as she then was) in *R (Good*

Law Project Limited) v Secretary of State for Health and Social Care [2022] EWCA Civ 355; [2022] 1 WLR 2339 (“*Good Law*”) stressed at [39] the need for promptness: ‘**Good public administration requires finality. Public authorities need to have certainty as to the validity of their decisions and actions**’.

17. **If the applicant is unaware of the decision that he or she subsequently wishes to challenge, that may amount to a good reason for delay, but that is on the proviso that the applicant acts expeditiously once they become aware of the decision:** see *R v Secretary of State for the Home Department Ex Parte Ruddock* [1987] 1 WLR 1482 (“*Ruddock*”). But errors by the applicant’s lawyers will not generally amount to a good reason for delay: *R v Secretary of State for Health Ex Parte Furneaux* [1994] 2 All E.R. 652.

18. It is right to say that in recent times there has been a greater emphasis on the need to comply with the tight time limits in judicial review cases: the decision of this court in *Good Law* is a case in point. Although ultimately concerned with the subsequent service rather than the filing of a judicial review claim, the decision should make salutary reading for all those who need to comply with the short time limit imposed in judicial review cases” (emphasis added).

40. The court has the general power to extend time for compliance with rule 54.5(1) pursuant to rule 3.1(2)(a). The claim will only survive if an extension of time is justified (*Surrey County Council*, para 44). As a failure to comply with rule 54.5(1) is a complete answer to a judicial review claim, it is usually best to deal with such a threshold issue at the outset (*Surrey County Council*, para 25). I shall follow that approach in this case.

Delay in challenging the 2024 Regulations

41. The Welsh Ministers made the 2024 Regulations on 27 June 2024. The claimant – through his mother – instructed solicitors on 23 December 2024. On 31 December 2024, the claimant’s solicitors sent a letter before claim. On 17 January 2025, the solicitors applied for legal aid. Following an initial refusal on 20 January 2025, legal aid was eventually granted on 13 February 2025. As I have already mentioned, the claim was launched on 17 February 2025. The claim was therefore brought over seven months after the 2024 Regulations were made and over four months after the three-month longstop in rule 54.5(1).
42. The claimant contends that time started to run from the date that the 2024 Regulations came into force rather than the date they were made. Even if that contention is correct, time started to run on 19 July 2024, so that the claim was brought nearly seven months later and just under 4 months after the longstop period had expired.

43. The claimant accepts that the challenge was made outside the longstop three-month period. Ms Sutton submitted on his behalf that there is good reason to extend time for essentially five reasons. I shall deal with each of these reasons in turn.
44. ***First***, Ms Sutton submitted that there would be no prejudice to the Welsh Ministers in the court entertaining the claim. She submitted that the Welsh Ministers had failed to demonstrate specific prejudice. She contended that the absence of evidence of specific prejudice was a factor in favour of an extension of time.
45. Mr Moffett accepted that the Welsh Ministers had not filed specific evidence of prejudice but contended that the absence of specific evidence is, at best, a neutral factor in the balance. He submitted that the court does not need specific evidence. It is well-established in the case law that delay damages good administration.
46. Mr Moffett emphasised that the 2024 Regulations were made many months ago and have been in force for many months. He submitted that individuals and GPs are bound to have arranged their affairs on the basis of the regulations.
47. In my judgment, Mr Moffett is essentially correct. The claimant's submissions fail to recognise that delay is inimical to good administration and that public authorities need to have certainty as to the validity of their decisions and actions (*Surrey County Council*, para 16 above). The detriment to good administration may, depending on the circumstances, be relevant both to the determination of whether a claim has been brought promptly and whether there is good reason to extend time (*Maharaj v National Energy Corp of Trinidad and Tobago* [2019] UKPC 5, [2019] 1 W.L.R. 983, para 36). In an area of public policy as important as the health and welfare of children, the court is entitled to treat the need for certainty as serving the public interest in good administration and as weighing against an extension of time.
48. In any event, the absence of prejudice to another party is not of itself a reason for granting an extension of time (*R (AK) v Entry Clearance Officer* [2021] EWCA Civ 1038, para 53). The absence of evidence from the Welsh Ministers on the question of prejudice is at best a neutral factor.
49. ***Secondly***, Ms Sutton submitted that the delay in bringing the claim was modest because the claim was lodged only four months or so after the longstop three-month period under rule 54.5(1) had elapsed. I do not accept that a four-month period should automatically be excused or treated as negligible. The duty was to be prompt. In determining whether the claimant acted promptly, the explanation for delay is critical.
50. There is no clear or adequate explanation for delay. In the Reply to the Summary Grounds of Defence, the claimant and the claimant's mother "accept that they were aware of both sets of Regulations relatively soon after they came into force." Given their early awareness, there is no meaningful evidence as to why a legal challenge to the 2024 Regulations could not have been launched in time.
51. In a witness statement dated 29 January 2025, the claimant's mother says that she and the claimant "first became aware that the Regulations could be challenged in Court" after she and the claimant's solicitor became aware of the debate in the Senedd relating to the No 2 Regulations. There is no evidence as to when the claimant, his mother or his solicitor became aware of the Senedd debate. There is no explanation as to why or

how the Senedd debate on the No 2 Regulations caused the claimant, his mother or the solicitor to understand that the 2024 Regulations could be challenged. In any event, the debate took place on 10 December 2024; yet the claim for judicial review was not brought until over two months later.

52. Mr Moffett pointed to the coincidence in timing between (on the one hand) the solicitors becoming aware of the Senedd debate and (on the other hand) the claimant and his mother's appreciation that he could challenge the regulations. Given that the claimant instructed solicitors two weeks after the debate, it is not clear why the solicitors' awareness of the debate is relevant to the claimant's awareness of the possibility of legal challenge. Mr Moffett submitted that the connection between the solicitors' awareness of the debate and the claimant's awareness of the possibility of a challenge is unexplained in the evidence before the court. He submitted that the claimant's mother had not given a full and frank account of this unexplained coincidence. Ms Sutton was unable to assist as to the coincidence and I have regrettably reached the conclusion that this part of the mother's evidence is not full and frank.
53. As a further justification for delay, the claimant's evidence has sought to present the 2024 Regulations as being complex, so that those affected by them could be excused for not appreciating their effect. The mother says in her witness statement that "the average person found it incredibly unclear about what restrictions on puberty blockers applied to England and which (if any) applied to Wales." The court is, however, concerned with the reasons for delay in this particular claim rather than with an analysis of other people's comprehension of the regulations.
54. The claimant's mother says that, because of the work that she does, she was able to find out some information but "it still wasn't very clear." However, it was open to her to find out about the effect of the 2024 Regulations, and to seek legal advice, within the three-month longstop for a challenge.
55. In his witness statement, the solicitor with conduct of the case for the claimant sets out in great detail the numerous steps taken to secure legal aid following an emergency application on 17 January 2025. I accept that the solicitors took reasonable steps to progress the application as quickly as possible after the legal aid application had been made. However, overall, I regard the reasons for delay as weighing against an extension of time.
56. ***Thirdly***, Ms Sutton submitted that the claimant has a clear personal interest in the claim. She submitted that it is likely that there would be negative consequences for his health and well-being if the court were to refuse to extend time, referring to the evidence of his mother's concerns in this regard. However, no medical evidence has been put before the court which would provide independent support for the mother's concerns. While I do not seek to minimise her anxiety, her view is not decisive.
57. ***Fourthly***, Ms Sutton submitted that time should be extended because the claim raises a matter of substantial public importance. In support of this fourth factor, Ms Sutton asked me to consider the view of the Children's Commissioner for Wales, Rocio Cifuentes MBE, which is expressed in a letter from the Commissioner to Dawn Bowden MS (Minister for Children and Social Care) dated 6 January 2025. In that letter, the Commissioner complained that no CRIA or any other form of impact assessment was tabled with either set of regulations. She expressed the view that, without a CRIA, it is

impossible for Ministers to provide evidence that they have complied with the duty to have due regard to the requirements of the UNCRC.

58. Ms Sutton submitted that the interest of the Children's Commissioner, as expressed in the letter, was a factor in favour of extending time. However, the letter was not written for the purposes of judicial review proceedings and does not address the claimant's grounds of challenge or the Welsh Ministers' grounds of defence. The complaint expressed in the letter is limited to the fact that there was no CRIA in relation to either set of regulations. There is no evidence that the Children's Commissioner is aware of the full nature or scope of the issues in the claim. It is not apt to infer (as Ms Sutton appeared to suggest) that the Children's Commissioner has an interest in the issues in these proceedings when there is no evidence that she has fully considered the issues. In any event, her interest would not be determinative of the question of delay.
59. Ms Sutton sought to persuade the court that press coverage and debate about the issues in the Senedd demonstrate the importance of the issues at stake. However, press and political interest is a common feature of the issues that arise in claims launched in this court. I do not regard that factor as warranting an extension of time in this case.
60. ***Fifthly***, Ms Sutton submitted that good administration would benefit from the guidance of the court on the value and function of CRIs and the engagement provisions which would have an impact on all decisions of the Welsh Ministers with regards to children and those with protected characteristics. She submitted that there would be a public interest in testing the decision-making process that was the target of the claim.
61. This submission assumes that the court would give wider guidance on decision-making as opposed to limiting any judgment to a consideration of the decision-making process under challenge. As Mr Moffett submitted, the circumstances of this case, which involve the implementation of the Cass Review, have their own particular features which are not easily replicated in, or relevant to, other cases. It is far from clear that wider principles of law would emerge.
62. ***Sixthly***, Ms Sutton contended that the merits of the claim were a factor in favour of extending time for the challenge to the 2024 Regulations. I do not propose to rehearse in full the competing arguments on the merits of the grounds of challenge. The submissions before me concentrated on the requirement for a CRIA and the duty to engage under the engagement provisions. As to the former, Ms Sutton submitted that the failure to produce a CRIA was unlawful because (i) it clearly demonstrates that the Welsh Ministers failed to have due regard to the best interests of children; and (ii) it amounted to a breach of the 2021 Scheme. As to the latter, Ms Sutton accepted that failure to comply with the engagement provisions cannot constitute a ground for judicial review, as non-compliance may only be challenged by the Equality and Human Rights Commission. She nevertheless maintained that a failure to comply with the engagement provisions should be treated as evidence of a general failure to comply with the PSSED. Mr Moffett submitted that the grounds of challenge were not arguable and that in any event the court should refuse permission under section 31(3D) of the Senior Courts Act 1981 (cited above).
63. As I have stated, Eyre J concluded that the challenge to the 2024 Regulations was arguable albeit by the narrowest of margins. However, I have had the benefit of oral submissions which Eyre J did not have. A party who renews his or her application for

permission to apply for judicial review may improve his or her position through the benefits that an oral hearing may bring; but the reverse is also true, in that a defendant may also take the benefit of oral submissions. On the basis of all the submissions (written and oral), I have concluded that the claimant's grounds of challenge rely on form to the detriment of substance.

64. The purpose of the 2024 Regulations was to implement the recommendations of the Cass Review. The claimant does not challenge any of the recommendations made by the Review and does not contend that the policy of the Welsh Ministers to implement the recommendations was flawed in public law terms. Rather, he argues that the failure to provide a CRIA and breach of the engagement provisions (in the form of a failure to consult interested persons about the 2024 Regulations) shines a light on the failure of the Welsh Ministers to comply with the UNCRC and the PSED.
65. However, the claimant has not advanced any properly formulated argument as to why a CRIA or anything in the engagement provisions would have made any difference as to whether or not the 2024 Regulations should have been made. The proposition in the Reply to the Summary Grounds of Defence that a CRIA or the engagement provisions could lead the Welsh Ministers to "go a different way from England and allow GPs to prescribe puberty blockers" amounts to speculation and mere assertion. I have heard and read nothing to suggest that a CRIA or the pursuit of the engagement provisions would have yielded any different outcome.
66. The purpose of the 2024 Regulations is (as Mr Moffett emphasised) to ensure the best interests and welfare of children following the outcome of a Review that plainly had the interests and welfare of children at its core. I accept that the claimant does not like its conclusions. However, the court has been provided with no evidence to suggest that either a CRIA or the engagement provisions could possibly reveal more than was considered by the Cass Review. As I put to Ms Sutton at the hearing, there is no evidence before the court that would or could come close to matching the evidence base of the University of York research and its findings. No error in the Review has been identified.
67. It is difficult to discern how the Welsh Ministers failed to have due regard to the principles that underlie the UNCRC or to the substance of the PSED. The policy objectives which I have set out at paragraph 25 above plainly concern the welfare of children and those with protected characteristics. Their rationale is to ensure that puberty blockers are only prescribed in safe and effective circumstances. The absence of a CRIA and the absence of engagement is immaterial because, as a matter of substance, the best interests of children and those with protected characteristics were not ignored or overlooked. It is the best interests of children and of those with protected characteristics that animates the 2024 Regulations. I do not accept that the grounds of challenge have strong enough merit that an extension of time is needed.
68. Furthermore, even if an error of law was made by the Welsh Ministers in relation to a CRIA or engagement provisions, it appears highly likely that the outcome for the claimant would not have been substantially different. This is a freestanding ground for refusing permission to proceed to a full hearing (section 31(3D)).
69. Even if a full hearing of the claim were to reveal that the claim had greater merit than the court can presently discern, the court could not see without much more investigation

that the claimant has a strong case. In these circumstances, the merits of the case do not have a significant part to play in deciding whether to grant an extension of time (AK, para 55).

70. Standing back, there is in my judgment no good reason for extending time for the claimant to challenge the 2024 Regulations. I refuse permission to apply for judicial review of the 2024 Regulations on grounds of delay in filing the claim.
71. As I have refused the claim on grounds of delay, there is no need for me to give further consideration to the merits of the grounds of challenge or to section 31(3D).

The No 2 Regulations

72. The force of the No 2 Regulations is to widen the group of people who may prescribe puberty blockers to children in order to cure an anomaly in the 2024 Regulations. I agree with Mr Moffett that the true target of the claim is not the curing of an anomaly but the claimant's disagreement with the policy underlying the 2024 Regulations. The claimant cannot deploy a challenge to the No 2 Regulations to make up for tardiness in his challenge to the 2024 Regulations.
73. The claimant's grounds for disagreeing with the No 2 Regulations are obscure, as is his objection to the curing of an anomaly. It does not make sense for the claimant to challenge a widening of an exception to the restriction of the prescription of puberty blockers. His complaint is that he cannot access puberty blockers in primary care, not that nurses and trainee GPs should still be prohibited from prescribing them. The challenge to the No 2 Regulations is bound to fail. It is not arguable and so does not meet the test for permission to apply for judicial review.

Conclusion

74. The challenge to the 2024 Regulations is out of time. The challenge to the No 2 Regulations (so far as it is separate) is not arguable. Accordingly, this renewed application for permission to apply for judicial review is refused. I am grateful to counsel for their helpful submissions.