

R (on the application of Evans and another) v The Care Quality Commission and another

PRESS SUMMARY

Important note for press and public: this summary forms no part of the court's decision. It is provided to assist the press and the public to understand what the court decided. The full judgment of the Court of Appeal is the only authoritative document. Judgments are publicly available documents and can be found at:

www.judiciary.uk

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This is the decision of Lord Justice Lewis.

1. This is an application for permission to appeal against a decision of Mrs Justice Eady (“the judge”) who dismissed a claim for judicial review of (1) a decision registering a private provider, Gender Plus Healthcare Ltd., to provide cross-sex hormones for 16 and 17 year olds and (2) a subsequent assessment of the provision of that treatment.
2. As the judge explained in her judgment,:

“2. The hormone treatment in issue involves the prescription of masculinising or feminising hormones (oestrogen; testosterone), introducing irreversible changes to the patient's body. There are strongly held views about this treatment and an expert panel is due to report to the Secretary of State for Health and Social Care on its use for those under 18. At present, however, the treatment provided by [GPH] to 16 and 17 year olds is permitted by law, and the issue I am required to determine is not whether that is correct, but whether specific decisions made by the CQC are irrational and/or unlawful.”
3. The three grounds upon which the applicant applies for permission to appeal are directed towards the process by which the Care Quality Commission reached a decision on 9 January 2024 to register Gender Plus Healthcare to provide cross-sex

hormone treatment and its December 2024 review and assessment of the provision of treatment. In essence, the grounds claim that the Care Quality Commission did not have regard to relevant matters when reaching its decisions.

4. The first ground concerns views expressed by the individual who founded and owns Gender Plus Healthcare, including views expressed in newspaper articles and interviews in 2024. Those views were said to be strong ideological views concerning the provision of treatment relating to gender identity. The Care Quality Commission carried out a thorough assessment of the way in which the treatment should be provided and involved, amongst other things, interviews and discussions with the individual concerned. The Care Quality Commission were not required to investigate and consider views expressed in newspaper articles or interviews. Permission to appeal on this ground is refused as the ground has no realistic prospect of success.
5. The second ground concerns a claim that the Care Quality Commission should have investigated what was described as the up-to-date way in which NHS in England considered whether to refer patients for cross-sex hormones. The Care Quality Commission was required to consider, and assess, the provision of treatment by Gender Plus Healthcare to see if that provider met the relevant regulations and statutory criteria. It did that. In doing so, it had regard to the NHS commissioning policy adopted in March 2024. Permission to appeal on this ground is refused as the ground has no realistic prospect of success.
6. The third ground concerns four differences between the process for considering, and providing, treatment by Gender Plus Healthcare and by the NHS in England. The

Care Quality Commission was considering an application for registration, and then reviewing the provision of treatment, by Gender Plus Healthcare. That is a private provider. The Care Quality Commission was well aware of the differences between the different methods of provisions by the NHS and Gender Plus Healthcare. Its role was to assess the provision of treatment by Gender Plus Healthcare. That is what it did. Permission to appeal on this ground is refused as the ground has no realistic prospect of success.

7. Permission to appeal is refused as there is no realistic prospect of any of the grounds of succeeding and no other compelling reason why an appeal should proceed.