Press Summary of the Judgment in

Re BV (Medical Treatment: Disorder of Sexual Development) [2026] EWHC 3059 (Fam)

This summary is provided to assist understanding of the Court's decision. It does not form part of the judgment and should not be treated as a substitute for reading the judgment itself.

The case

The case concerned BV, a 19-month-old child born with a rare Disorder of Sexual Development ("DSD"). BV was born with both male and female sex characteristics, including a phallus, gonadal tissue, and internal female reproductive structures. Since birth, BV has been assigned and raised as male.

The application was brought by an anonymised NHS Foundation Trust under the Court's inherent jurisdiction. The Trust sought declarations that it would be lawful and in BV's best interests for surgeons to perform:

1. Staged surgery to correct a severe form of hypospadias (to correct a deformity to his penis); and
2. Surgery to remove BV's internal female reproductive structures, namely the vagina, hemi-uterus, fallopian tube and an internal gonad.

The principal issue before the court was whether the second category of surgery, which is irreversible, should be carried out now or deferred until BV is older and able to participate in the decision himself.

The parties' positions

There was agreement that the hypospadias surgery should proceed.

The Trust's initial position was that surgery to remove the female reproductive structures should be postponed, primarily to preserve BV's future autonomy and allow him, if able, to make that decision for himself when older. The Trust emphasised that the structures were currently causing no medical problems and that removing them would permanently remove any future possibility, however remote, of pregnancy. By the conclusion of the hearing, however, the Trust adopted a neutral position.

BV's mother strongly supported immediate surgery. She expressed profound concern about the continuing ambiguity of BV's sex characteristics and the impact this uncertainty was having, and would continue to have, on family life, social integration and her ability to parent confidently.

BV's Children's Guardian, acting independently on his behalf, ultimately supported the mother's position. While recognising the importance of preserving future choice, the Guardian concluded that delay posed significant risks to BV's welfare, particularly through its potential impact on the mother-child relationship and BV's emotional development.

The legal framework

The Court applied the established legal principles governing medical treatment decisions for children who lack capacity to decide for themselves. The Court's sole task was to determine what course was in BV's best interests. In doing so, the Court was required to consider BV's welfare in the widest possible sense, including medical, psychological, emotional, social and relational factors, while exercising its own independent judgment.

The Court's decision

Sir Stephen Cobb, President of the Family Division, concluded that it was in BV's best interests for both the hypospadias surgery and the removal of the internal female reproductive structures to proceed forthwith, or as soon as clinically indicated. The Court therefore declared that those procedures would be lawful.

The Court acknowledged several factors weighing in favour of postponement, including:

- The absence of any immediate medical necessity for removal of the female reproductive structures.
- The irreversible nature of the surgery.
- The possibility that postponement would preserve BV's opportunity to participate in the decision later in life.
- The possibility, albeit remote, that BV might in adulthood wish to retain female reproductive structures and seek to carry a pregnancy.

However, the Court concluded that those considerations were outweighed by the realities of BV's present circumstances. In particular, the Court attached substantial weight to:

- The fact that BV has been assigned and raised as male since birth.
- The evidence that continuing ambiguity about his sex characteristics created significant risks for his psychological and social welfare.
- The importance of preserving and strengthening BV's attachment relationship with his mother, upon whom he is entirely dependent.
- The evidence that deferral of the decision would likely prolong the mother's anxiety and difficulty in coming to terms fully with BV's condition, with potential consequences for BV's welfare and development.

The Court stressed that this was a highly unusual case involving difficult ethical questions and medical uncertainty. It recognised that there was no risk-free option and that deferring surgery would not avoid risk but would instead create a different set of risks.

Having considered all the medical, psychological, social and relational factors together, the Court concluded that authorising the surgery now was the course most likely to promote BV's welfare.

Anonymity

The Court ordered the continued anonymity of BV, his family, the applicant Trust and the treating clinicians. Those protections will remain in place until BV reaches adulthood.

Further information

The judgment is: **Re BV (Medical Treatment: Disorder of Sexual Development) [2026] EWHC 3059 (Fam)**: Sir Stephen Cobb, President of the Family Division, dated 25 November 2026.