



Press Summary

16 April 2025

Abbasi and another (Respondents) v Newcastle upon Tyne Hospitals NHS Foundation Trust (Appellant); Haastrup (Respondent) v King's College Hospital NHS Foundation Trust (Appellant)

[2025] UKSC 15

On appeal from [2023] EWCA Civ 331

Justices: Lord Reed (President), Lord Hodge (Deputy President), Lord Briggs, Lord Sales and Lord Stephens

Background to the Appeal

This appeal concerns the basis on which injunctions, granted in connection with proceedings initiated to determine whether it is in a child's best interests that life-sustaining treatment should be withdrawn, can be continued once those proceedings have ended. The purpose and effect of these injunctions is primarily to prevent the identification of persons and institutions involved in the treatment and care of the child in question. Under current practice, such an injunction is granted at the outset of the proceedings for an indefinite duration, so that it continues to inhibit disclosure until someone successfully applies for its variation or discharge.

In the two cases under appeal, the NHS trusts separately issued proceedings in the Family Division seeking a declaration that it was in the relevant child's best interests that life-sustaining treatment should be withdrawn. A declaration was awarded in the Haastrup case, but in the Abbasi case the child had died before a full hearing of the application for a declaration could take place. In both cases, the court granted injunctions of the nature described above. The identities of the hospitals where the children were treated were later disclosed, but the names of the clinicians involved remained anonymised in accordance with the injunctions.

The parents of the children concerned then applied, after the children had died, to be released from the restrictions imposed by the relevant injunction. They wished to tell their story about what had happened to them and their child, both in hospital and in court, and in doing so to be free to name and to criticise members of the clinical team caring for their child. The trusts resisted the parents' applications, on the primary ground that making public the names of the treating clinicians would create an unacceptable risk of an invasion of their rights to private life, by exposing them to harassment and abuse from the media and the public.

At first instance, the President of the Family Division agreed with the trusts that the injunctions should be continued. The Court of Appeal disagreed, and discharged the injunctions. The trusts now appeal to the Supreme Court.

Judgment

The Supreme Court unanimously dismisses the appeal, but for reasons that differ from those given by the Court of Appeal. Lord Reed and Lord Briggs give the leading judgment, with which Lord Hodge and Lord Stephens agree. The Court holds that the clinicians' cause of action to protect their private life had to be asserted in a claim brought by the clinicians themselves. Lord Sales gives a concurring judgment expressing general agreement with the leading judgment, but concludes that these were appropriate cases for the court to grant injunctions to protect the rights of clinicians in proceedings commenced by the trusts.

Reasons for the Judgment

The High Court has jurisdiction, in proceedings concerned with the withdrawal of life-sustaining treatment of children, to grant injunctions protecting the identities of clinicians and other hospital staff involved in that treatment, where and for so long as that is necessary to protect the interests of those children [57], [62], [63]. That jurisdiction arises under the court's inherent *parens patriae* powers to protect those who cannot protect themselves [38], [56], and under its inherent jurisdiction to protect the administration of justice [61], [182]. However, after the child has died, these powers can no longer be exercised such that if the injunction is to be continued, it must be on some other basis [43], [65], [103].

The High Court also has jurisdiction to issue such injunctions where that is necessary in order to prevent interference with hospital trusts' performance of their statutory functions, as established in the case of *Broadmoor Special Hospital Authority and another v Robinson* [2000] QB 775 [66]. In principle, *Broadmoor* might have provided an alternative basis to the *parens patriae* jurisdiction for granting the injunctions in the presents appeals [77].

The Court observes that there is an overlap between the interests of the child, the trust and the clinicians. By protecting its own interest in the anonymity of the clinicians, so as to avoid the adverse impact which abuse of them would have upon its provision of care to its patients, the trust can also incidentally protect the clinicians' private lives; and, so long as the child continues to live, the court can do the same by protecting the interests of the child. The trust, and the court, can thus protect the private lives of the clinicians without necessarily concerning themselves directly with the clinicians' rights [47], [76], [95]-[97]. However, in these appeals no such reliance was placed by the trusts on its statutory powers and duties in seeking to protect the clinicians' rights [77].

The Court also notes that the High Court's inherent equitable jurisdiction is in principle sufficiently wide to enable it to grant an injunction, on a claim brought by the trusts, when its failure to do so would be incompatible with rights under the European Convention on Human Rights [86]. However, the trust cannot bring a claim on behalf of the clinicians where such protection can be afforded under *parens patriae* powers or under the court's power to protect the administration of justice, or on the basis explained in *Broadmoor*, or where it is practical for the clinicians (or a representative) to be joined to the proceedings and to assert their own claim [76], [182]. Furthermore, section 6(1) of the Human Rights Act 1998, which incorporates the Convention into domestic law, does not confer any power on the court which it does not otherwise possess. Domestic causes of action are the means by which compliance with Convention rights, including those protected by article 8 (right to private life), is normally secured [85]-[88], and the domestic common law has evolved in important ways to secure rights relating to privacy [79]-[80], [94]. Any practical concerns are overcome if the trust

undertakes the necessary preparations, by agreement with the clinicians, and the clinicians' claim for an injunction is joined to the proceedings brought by the trust under the *parens patriae* jurisdiction or the *Broadmoor* jurisdiction (or both) [81], [99]. The clinicians' participation in the proceedings could also properly be funded by the trust [82].

Injunctions of the present kind should be of limited duration. It is reasonable to infer that the risk of harm to the child, the trusts and the clinicians is likely to decline over time, from the moment when the proceedings end. Although the parents will continue to grieve, the emotional reaction of the general public is unlikely to be as strong, especially if publicity was restricted while the child was being treated. By contrast, the effect of the restraint upon the parents' freedom of expression under article 10 of the Convention is likely to be much more enduring in its consequences. In these appeals, the parents wish to publish details of their experiences and concerns in an area of public controversy. Naming the clinicians involved is relevant to the intense public debate on the moral and ethical questions surrounding the treatment of children and adults in positions analogous to their children [45]-[46], [144], [172].

The Court considers that a reasonable duration would usually be until the end of the proceedings and, in the event that they terminate with the child's death or the grant of the declaration sought, for a subsequent cooling-off period. The length of that period will reflect the court's assessment of the continued risk of interference with the trust's performance of its statutory functions, and in particular with its continuing treatment of other patients, and the time reasonably needed for clinicians to take advice about their personal rights [66], [142]. The Court observes that it is significant in the present proceedings that there has been a long lapse of time since the children have died [155].

In the event that a fresh injunction (or the continuation of the existing injunction) is sought beyond the cooling-off period in order to protect the rights of clinicians or other hospital staff, such as in these proceedings, the application should be made by those individuals, relying on their own relevant cause or causes of action [76], [104], [109]-[110], [113].

Such applications by the clinicians (for extended protection beyond the cooling-off period) should be supported by specific evidence [148], and the need for any restriction of freedom of expression under article 10 must be established convincingly [106], [149], [159]. The Court observes that such evidence was absent in the present proceedings [155]. The extended protection must be justified by a pressing social need, and must be proportionate to the legitimate aim pursued [128]. This consideration applies with particular force to preventive restraints on publication [126]. A permanent restriction would require compelling circumstances [149]. Weight can be given to the importance of protecting the medical and other staff of public hospitals against unfounded accusations and consequent abuse [157], [178]. However, the court should also bear in mind that the treatment of patients in public hospitals is a matter of legitimate public interest, and that the senior medical and other staff of public hospitals are public figures for the purposes of the Convention, with the consequence that the limits of acceptable criticism are wider than in the case of private individuals [130]-[131].

Applying the Court's approach in the present proceedings, as the claims had not been brought by the clinicians themselves there was no basis on which the injunctions could be continued after a cooling-off period. In any event, had such claims been brought, it would have been difficult to justify the continuation of the injunctions. Evidence before the courts below did not demonstrate a risk of invasion of privacy (or any other form of wrongful conduct). On the other hand, the parents' publication of their concerns would contribute to a debate of general interest, and the hospital staff concerned were, for the purposes of article 10, public figures vested with official functions, and the limits of acceptable criticism were accordingly wider than in the case of private individuals [181].

Finally, the Court observes that the initial granting of the injunctions in these proceedings did not breach the principle of open justice in so far as they prohibited the publication of the names

of witnesses in proceedings held in private under the *parens patriae* jurisdiction. The privacy of proceedings concerning children has long been recognised both under the common law and in legislation [117]-[119]. Exceptions to the requirement to hold public hearings are also permissible under article 6 of the Convention (right to a fair trial) [123].

Lord Sales agrees with the leading judgment but emphasises the rights of the clinicians, especially in the initial phase of events when the child is being treated [183]. In certain circumstances, the personal rights of the clinicians may not overlap with those of the child or the trust [186], and there will be cases where there is no dispute about the best interests of the child and therefore no court proceedings in which to invoke the *parens patriae* jurisdiction [187]. It would be appropriate for the court to respond directly to the claim actually brought in such cases by identifying the rights of the clinicians themselves and granting relief to protect those rights [188]. This also ensures that a court is able to balance the competing rights of the parents and the clinicians, whether under domestic law or under the Convention [190]-[191]. Furthermore, in the initial phase, the clinicians are concentrating on caring for the child and usually do not have a fair opportunity to take legal proceedings to protect their rights [194], [196]. In the present cases the trusts, as appropriate persons with standing, therefore proceeded in a laudable and appropriate manner for taking it upon themselves in the initial phase to assert the rights of the clinicians in their employment [185], [195], [198], [201].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)