

LSE-Featherstone Sexual Orientation and Gender Identity Moot Competition

Problem 2026

1. AJ ('**the Appellant**') brought a claim for judicial review by his mother and litigation friend, BX. AJ is a 11-year-old pupil at Oxingham High School ('**the School/Interested Party**'). AJ uses he/him pronouns but was assigned female at birth.
2. The School is a local authority-maintained mainstream secondary school in Oxingham County Council ('**the Respondent**'), which teaches pupils aged 11-16. It does not have its own library, but Oxingham Public Library ('**the Library**')—which the Respondent is also legally responsible for—is next door to the School; a section of it is demarcated for exclusive use by the School and the materials available here are selected on behalf of the School. There are lunchtime reading sessions arranged between the School and the Respondent (through its Library employees) for School students at the Library. Prior to May 2025, the section of the library demarcated for exclusive use by the School included books providing advice to transgender readers on healthcare issues.
3. In May 2025, local elections resulted in a change of leadership on the Oxingham County Council. One of the first acts of the new administration was to pass a motion ('the Ban') on 12 May 2025 prohibiting public libraries from "*promoting gender ideology to children*" due in part to concerns about "*indoctrinating children to become transgender*".
4. All books concerning transgender healthcare were removed from the School's section of the Library. Other books on adolescent healthcare issues remained in the School's section of the Library, including in respect of pregnancy and sexual health. The transgender health related books were placed in an 18+ only section of the Library.
5. AJ brought a claim for judicial review challenging the Council's decision on the basis that it was irrational, a breach of the right to freedom of expression under Article 10 ECHR and discriminatory, either directly discriminatory on the basis of the protected

characteristic of gender reassignment under the Equality Act 2010 or indirect discrimination.

6. Permission was granted on all grounds, but the claim was ultimately dismissed by the High Court. The key reasoning of the Court (Jenkins J) was:

“The prohibition was not direct discrimination under section 13 Equality Act 2010 as it was not because of a protected characteristic. Any discrimination was because of the Council’s purported concerns about “gender ideology” and it was not only transgender pupils who were impacted by the prohibition. Any pupil with an interest in transgender healthcare—trans or otherwise—was impacted.

The prohibition was prima facie indirectly discriminatory under section 19 Equality Act 2010 as the Court accepted that it would primarily, perhaps even exclusively, impact children and young people with the protected characteristic of gender reassignment. Similarly, the Court accepted that the prohibition constituted a prima facie interference with Article 10 ECHR.

However, both indirect discrimination (section 19 Equality Act 2010) and interference with Article 10 ECHR could be justified solely on the basis that the local authority had obligations under s.406(1) of the Education Act 1996. Although s.406(1) might not require all local authorities to take the steps that this Council did, given the complexity of the issues and strongly held views on this topic, a wide degree of latitude should be given to the Defendant in deciding how it should ensure political neutrality and avoid “partisan political activities”. The claim was also not irrational for the same reason.”

The Appellant was granted permission to appeal the High Court’s decision by Minogue LJ on two grounds:

Ground 1: The High Court erred in finding that there was no direct discrimination given the stated aim of the ban was to prevent children from being “indoctrinat[ed] … to become transgender” and the High Court’s finding of fact as to who would be impacted by the prohibition.

Ground 2: The High Court misapplied section 406 Education Act 1996 and adopted a construction of “partisan political activities” that was incompatible with Article 10 ECHR and contrary to the object and purpose of the legislation.