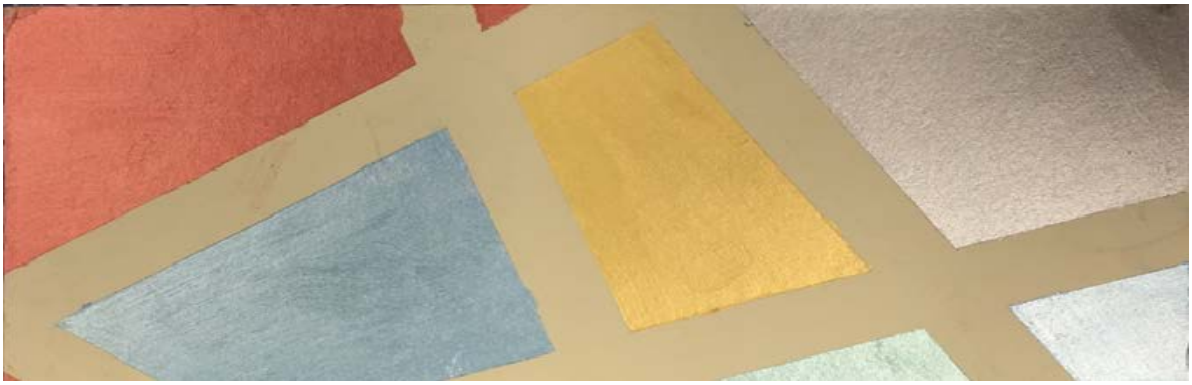
MENTAL CAPACITY REPORT: PRACTICE AND PROCEDURE

July 2024 | Issue 142



Welcome to the July 2024 Mental Capacity Report. Highlights this month include:

(1) In the Health, Welfare and Deprivation of Liberty Report: sexual capacity complexities, wishes and feelings in the balance, and finding the P in a PDOC case;

(2) In the Property and Affairs Report: deputy bond provider problems and a job opportunity in the Official Solicitor's office;

(3) In the Practice and Procedure Report: how far can the Court of Protection go to ensure its orders are complied with, and risk taking, best interests and health and welfare deputies;

(4) In the Mental Health Matters Report: Tier 4 beds (again) and the Mental Health Tribunal and the Parole Board;

(5) In the Wider Context Report: local authority consent to confinement, the Irish courts continue to grapple with the consequences of the framework, and Strasbourg pronounces on assisted dying;

(6) In the Scotland Report: exasperation at the pace of the Scottish Government's Mental Health and Capacity Reform Programme.

There is one plug this month, for a free digital trial of the newly relaunched Court of Protection Law Reports (now published by Butterworths. For a walkthrough of one of the reports, see here.

Alex trusts that readers will not mind a slight blowing of the trumpet at his having been awarded Outstanding Legal Achievement at the 2024 Modern Law Private Client Awards for his work sharing knowledge about the Mental Capacity Act 2005 (and hence, in significant part, thanks to his fellow editors on this Report), and being appointed Professor of Practice at King's College London from August 2024 (a position which reflects the opportunities given by Chambers to him to moonlight so often away from the day job – for which he is very grateful!).

You can find our past issues, our case summaries, and more on our dedicated sub-site here, where you can also sign up to the Mental Capacity Report.

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The picture at the top, "*Colourful*," is by Geoffrey Files, a young autistic man. We are very grateful to him and his family for permission to use his artwork.

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How far can the Court of Protection go to ensure its orders are complied with?

LB Hackney v A, B and C [2024] EWCOP 33 (John McKendrick KC, sitting as a Deputy High Court Judge and a Tier 3 Judge of the Court of Protection)

CoP jurisdiction and powers – injunctions

Summary

John McKendrick KC has answered a question which, as he noted, had curiously not been answered since the MCA 2005 came into force – namely how far-reaching a set of injunctive measures it can grant to compel compliance with its orders.

The issue before the court was as to the steps that could be taken to compel P's mother to return him to the placement where the court had determined it to be in his best interests to live. An order had been made by a Tier 1 judge requiring P's mother and her partner to return P to the placement; a copy of this order had been given to her, and she had ripped it up. Further orders were made, backed by penal notices, but the local authority could not serve them because they did not know where the mother and partner (and P) were. Matters were then escalated to Tier 3, with the local authority seeking a collection order, and an order against two telephone companies for the disclosure of information to assist in identifying where P's mother was. The urgent application came on on the basis of orders being sought under the MCA 2005; an undertaking was also made that an application would be issued under the inherent jurisdiction.

John McKendrick KC noted the seriousness of proceeding without notice to the mother and partner, but that this was a consequence of them having failed to engage with the proceedings (paragraph 10). He then noted that he had been referred to the pre-MCA 2005 decision of *HM and PM and KH* [2010] EWHC 870 Fam, in which (sitting in the inherent jurisdiction), Munby LJ had examined in characteristic detail the jurisdictional basis of the High Court's powers to grant injunctions under the inherent jurisdiction, and had made a whole raft of orders directed to locate and bring about the safe return of the subject of the proceedings.

Whether the Court of Protection had such wide-ranging powers was, John McKendrick KC, not the subject of a reported judgment. He noted, however, that the Court of Appeal had made clear in *Re G* [2022] EWCA Civ 1312 that the Court of Protection had the power to make injunctions under s.16(5) MCA 2005 where it was just and convenient to enforce a best interests decision. He also referred to the subsequent judgment of Senior Judge Hilder in *HM and PM and KH* [2010] EWHC 870 Fam, which also considered the same issue.

John McKendrick KC noted that "*if there is a statutory scheme, then the court must follow that scheme as Parliament set down and resort to the Inherent Jurisdiction only in those limited circumstances where a true statutory gap and where it is necessary to do so. I paraphrase*" (paragraph 23).

John McKendrick KC found that, in the very concerning circumstances of the case, and the "*very highest level of concern*" (paragraph 24) he had for P, it was "*necessary, proportionate, and overwhelmingly just and convenient*" (paragraph 26) to make a collection order to locate and safeguard him by returning him to his home. He considered that it was necessary to make such an order enforcing the Tipstaff and police to enter into third party properties for those purposes, and that he had the jurisdiction to do so under s.16(5) MCA 2005 (see paragraph 27).

John McKendrick KC noted, however, that there was a potential debate about whether a Tier 1 or Tier 2 judge could have made this order by importing the High Court's inherent jurisdiction via s.47 MCA 2005. And, to put the jurisdictional basis of his order beyond doubt, he also made the same order sitting as a High Court judge exercising the inherent jurisdiction (see paragraph 28).

John McKendrick KC also found that he had the ability to make the orders sought against the telephone companies as *"orders made in connection with the Court of Protection's jurisdiction and the* […] *earlier best interests order in respect of A's residence*" (paragraph 29).

In a postscript, John McKendrick KC recorded that A was returned to the placement some days later, although tantalisingly, he does not say by whom.

Comment

As John McKendrick KC made clear, the judgment was one delivered at speed and ex tempore (i.e. on the spot). It is entirely understandable, therefore, that he deployed the belt and braces approach of both making the orders sought as a Court of Protection judge exercising powers under s.16(5) MCA 2005 (and, following *Re G,* by importing the High Court's powers to make injunctions under s.47) and sitting as a High Court judge exercising his powers under the High Court's inherent jurisdiction.

It is, however, to be mildly regretted that he did not roll up his judicial sleeves and determine whether a Tier 1 or Tier 2 judge themselves could have made the orders. It is undoubtedly the case – 23would suggest – that the Court of Protection cannot simply import the High Court's inherent jurisdiction to make substantive orders about those who do not lack capacity applying the test in the MCA 2005.[1] However, that jurisdiction is distinct to the inherent common law power of the High Court to control its own processes and enforce compliance with its decisions (see e.g. Griffin v Griffin [2000] EWCA Civ 119 at paragraph 21). If the Court of Protection cannot import the High Court's own powers to do "hefty" stuff to enforce its best interests determinations it means that Tier 1 judges (who hear the vast majority of cases) are hamstrung in their ability to enforce their rulings. Every time their orders are frustrated in the way that happened here, they will need to refer the case to a judge with the power to sit as a High Court judge, hearing a (fresh) application issued under the inherent jurisdiction.

[1] As to which see our guidance note.

For what it is worth, we are of the clear view that Court of Protection judges can use the magic sparkle dust of s.47 MCA 2005 (allied, I would suggest, to s.16(5) to make clear why) to import the extensive suite of powers available to the High Court to ensure that their orders are given effect to. That does not mean that they should have ready recourse to it, nor that there is not good reason to transfer up particularly high octane cases to be heard by Tier 3 judges, but those are both separate matters.

Risk-taking, best interests and health and welfare deputies

AB v CD [2024] EWCOP 32 (HHJ Baddeley)

Deputies – welfare matters

Summary

This case concerneed the best interests of a 27 year old man with a moderate learning disability, and visual and hearing impairments. At heart, it was a dispute between his mother, who had (in her own words) brought him in a "very alternative way", and the local authority responsible for his care and placement in a supported living placement, KL. His mother, who described how she had moved away from South Yorkshire some years previously, having experienced harassment, wished him to move to south west England to live with her; Sheffield City Council resisted this. HHJ Baddeley helpfully summarised his findings thus:

i) *CD is safe and generally content at EF.*

ii) *KL could do more to promote different activities and CD's psychosocial development.*

iii) *KL have adopted a risk averse approach and have been slow to implement change.*

iv) *CD enjoys spending time with AB. He did not want to leave South West England on his visit early in the year. However, this may have been his reaction to a lovely weekend rather than the result of a considered analysis of the pros and cons of a permanent move to South West England.*

v) *AB has a very different attitude to risk to the professionals. She believes that risks are worth taking so that CD can fly.*

vi) *The conflict between AB and professionals, particularly at KL, has been harmful to CD. AB must take some of the responsibility for that. Sometimes she has communicated in ways that have increased the conflict, which has worked against her son's best interests.*

vii) *AB's plans for CD in South West England are not fully developed. She plans for him to stay with her in her two-bedroom flat initially with support from personal assistants. She was clear that this arrangement was only to be a "stepping stone." There is a lot of uncertainty around the longer-term plans. Whilst enquiries have been made by AB of potential personal assistants, no supported or semi-independent placements have been identified in South West England.*

viii) *Professionals find AB difficult. It is not known whether AB will be able to develop a working relationship with professionals in South West England that would further CD's interests.*

HHJ Baddeley agreed with the independent social worker that it was in CD's best interests to remain at EF for another year, with the issue of

his potential relocation to South West England to be considered at his next annual deprivation of liberty review. He also endorsed changes to the contact arrangements. He noted that

> *118.* […] *there now needs to be a comprehensive assessment of whether CD does require 2:1 support or whether 1:1 is sufficient. This is an issue that has been contentious throughout the protracted litigation […] and does need to be resolved now. This is obviously highly relevant to the issue of whether it is in CD's best interests to be able to spend time alone with his mother, which she dearly wants, for understandable reasons.*

As regards the appointment of a deputy, HHJ Baddeley noted that this was unusual, but that:

> *106. I am however satisfied that this is one of those rare cases in which it is in CD's best interests for a deputy to be appointed, for the reasons put forward by Mr Wall. As Miss Gardner put it in her submissions, "Hopefully, a health and welfare deputy will draw a line in the sand – because the current arrangements are not working."*
>
> *107. I am pleased to learn that SCC is willing to fund a Deputy for an initial 12-month period. Maria Christine Hutchinson has agreed to act in this role. I have considered the COP4 form that has been filed. She appears to be well qualified to act in this role, having a knowledge of the care system and how the Act operates. I understand that she has no links with any of the parties and so can bring a fresh pair of eyes to this difficult case.*
>
> *108. No other potential deputies who are willing to act have been identified.*
>
> *109. I shall appoint Maria Christine Hutchinson as health and welfare deputy.*
>
> *110. The powers of the Deputy shall be as follows:*
>
> *"The court authorises the deputy to make the following decisions on behalf of CD that he is unable to make for himself at the time when the decision needs to be made:*
>
> *(i) Overseeing and consulting with SCC and NHS South Yorkshire Integrated Care Board about arrangements made by them as the responsible s.117 MHA bodies, for his care and support and by KL as the provider of care, to include liaison/consultations with clinical/medical professionals, representatives of bodies with social care and health care responsibilities, and CD's family about CD's care;*
>
> *(ii) Making arrangements for contact between CD and his family including communicating the nature of those arrangements to the providers of CD's care and the family;*
>
> *(iii) Making health and welfare decisions not already decided for CD by the court, in consultation with providers of care services, clinical/medical professionals, representatives of bodies with social care and health care responsibilities, and CD's family;*
>
> *(iv) Raising any issues of concern or complaints about CD's care or treatment with the appropriate authority/person for investigation as applicable, and deciding which concerns and complaints raised by others are to be taken forward for investigation by the appropriate authority/person.*
>
> *(v) In liaison with SCC, KL and AB agreeing and keeping under review a*

communication agreement setting out a mechanism by which communication will take place between the parties.

The deputy has permission to obtain any medical and social care records held by third parties in relation to CD. Any party (save for CD's legal representatives) requesting records relating to CD shall make a request to the deputy, who will decide which documents, if any, should be provided."

Comment

This case provides an example of when (unusually) the Court of Protection considers that it is in the best interests of P to appoint a health and welfare deputy. The judge of the former Vice-President of the Court of Protection, Hayden J, in *Re Lawson, Mottram and Hopton (appointment of personal welfare deputies)* [2019] EWCOP 22 explored in considerable detail why it is unusual to appoint a health and welfare deputy, whereas the appointment of property and affairs deputies is routine. In short, this is because s.5 MCA 2005 provides an informal 'workaround' for the inability of the person to consent to acts and care treatment; there is (broadly) no such workaround for the inability of a person to make decisions about property and financial affairs. In consequence, formal authority is required for the latter in a way that is not required for the former.

The case also provides a useful outline of the powers that were considered – at this stage – to be necessary for the deputy to exercise in CD's best interests.

Court of Protection statistics January – March 2024

The most recent set of statistics have been published by the Ministry of Justice.

They show that there were 2,022 applications in January to March 2024 relating to deprivation of liberty, the highest number in the current series of data. Of these, 653 were s.21A applications relating to DoLS authorisations, 1,221 *Re X* applications for judicial authorisation of deprivation of liberty, and 158 were 'conventional' applications under s.16 for orders involving deprivation of liberty. process.

The future of contempt

The Law Commission has published its consultation paper on contempt law, including provisional proposals affecting the operation of the contempt rules in the Court of Protection. For details, see here. The closing date for the consultation is 9 November 2024.

The dangers of judicial research

D and A (Fact-finding: Research Literature) [2024] EWCA Civ 663 (Court of Appeal (Baker, Phillips and Elisabeth Laing LJJ)

Other proceeding – family (public law)

Summary

This judgment concerned the use of medical research literature as evidence in care proceedings under the Children Act.

The appeal was brought by the parents of two boys, D, aged 6, and A, 2. D and A had lived in the family home until February 2023. The family had no involvement with social services prior to this time and had not come to the attend of any professional agency.

On 2 February 2023, A's parents took him to hospital "*reporting that, whilst at home, he had fallen on the sofa, hitting his head on the arm rest in which there were wooden slats. He cried, then went floppy and his eyes rolled. He did not lose consciousness but remained drowsy and floppy*

for about 10 to 15 minutes" (paragraph 4). A was approximately 7 months old. The parents, maternal grandmother and step-grandfather were all present in the room when this occurred, but all stated that they had not seen A fall. Doctors were not concerned with his presentation and he was discharged home. However, "[o]*n the following day, the mother returned A to the hospital reporting that he had slept poorly and vomited during the night. A CT scan conducted that day revealed intracranial bleeding. Further examinations, including fundoscopy and an MRI of A's head and spine on 5 February 2023, revealed"* (paragraph 6). significant injuries which were relied upon by the local authority in the public law proceedings to demonstrate that the threshold was met. Hospital staff suspected non-accidental injuries and alerted children's services; A and D were accommodated by the local authority under s.20 Children Act from 4 February. A made a complete recovery from his injuries, and after stays with family members, A and D were eventually returned to the care of their parents.

In the interim, care proceedings were commenced in relation to both A and D. A was made subject to an interim care order and D subject to an interim supervision order in early March 2023. Permission was granted for a range of medical experts to be instructed, with an experts' meeting taking place on 1 August 2023. The fact-finding hearing took place in October 2023, with the local authority seeking finding "*that A's injuries had been inflicted by one of four individuals – the mother, the father, the grandmother or step-grandfather – and, if the injuries had been inflicted by one of those four adults, that the parent, or parents, who had not inflicted the injuries had failed to protect A from harm*" (paragraph 10). After seven days of evidence from ten witnesses (five medical experts, the social worker and four family members), "*the local authority told the judge that it was now taking a "neutral position" on whether findings should be made. After discussion, counsel asked for time to consider the position. Later that day, the local authority informed the court that it was seeking to withdraw the proceedings*" (paragraph 11.) The local authority's application to withdraw was made on the basis that the medical expert opinion was inconsistent, and four of the five experts considered that A's injuries could have been accidental and in keeping with the accounts of the adults. Additionally, the social worker had not had further concerns about the adults during the proceedings. *"*[T*he local authority submit[ted] that this is a case where they are unable to satisfy the threshold based on the oral evidence*" (paragraph 12). The application to withdraw was supported by all parties including the children's guardian.

The first-instance judge hearing the case gave an ex tempore judgment refusing the application for leave to withdraw, on the basis that it would promote the children's welfare to have a fully reasoned judgment on the application, and to be assisted by a rigorous consideration of the literature in this case, the expert evidence and the family evidence' in submissions from the parties. The parties filed written submissions, with no party inviting the court to make findings, and the local authority setting out lengthy submissions in support of its application to withdraw. Baker LJ summarised the first-instance judgment:

> *16.Judgment was handed down on 15 November 2023. It was lengthy and detailed and was accompanied by three annexes: (A) a summary drafted by the judge of various research papers cited by the experts; (B) a note on the law for fact-finding hearings agreed by counsel, and (C) a plain English summary of the judge's findings. The judge made findings on the basis of which she concluded that the threshold criteria for making orders under s.31 of the Children Act 1989 were satisfied.*

The first instance judgment was very critical of the local authority's submissions on the basis that they did not sufficiently engage with the detailed and complex medical evidence in the case. The court's own analysis was extremely lengthy, and discussed points of both the medical evidence and the research which had been filed. The ultimate conclusion was that A likely did have an incident of falling off the sofa, but the first-instance judge was not satisfied that the sofa incident was the cause of his injuries. She considered a more significant force would have been involved in causing his injuries (discussed in terms of 'acceleration' and 'deceleration'), of which the parents were aware.

An appeal was subsequently brought. During the pendency of the appeal, the children were at first living away from their parents, and eventually spending increasing amounts of unsupervised time with them. The underlying proceedings were eventually brought to an end on 28 March 2024, with the children returning to their parents without a supervision order. Five grounds of appeal were brought, but the primary issues were Grounds 1 and 2:

> *69. (1) The judge acted as her own expert and conducted her own analysis of the medical research material. She was wrong to make findings that were not supported by evidence but were in the main made as a result of her analysis of the medical research literature (grounds 1 and 2).*
>
> *70. It was argued that the judge elevated her own analysis of the literature to a status far above other evidence, and used that as the prism through which she evaluated all the other evidence in the case. The judge tried to find the answer buried within literature and, having found what she thought was the answer, applied it to the case. As a result she failed to analyse or give any proper weight to the totality of the expert evidence.*

The judge dismissed one research paper and finding that little weight could be given to it, when none of the experts took that view, and some experts considered it a significant and relevant paper. The appellants also argued that it was the judge who introduced the theory of an earlier incident which had caused A's injuries.

After reviewing case law on the use of research literature in expert evidence (and noting that research literature only becomes part of the evidence if it is cited by an expert in a report or put to them on cross-examination), and the FPR on expert evidence, Baker LJ summarised the key principles:

> *85.In considering the research literature, however, the judge must exercise caution. First, she should not use analysis of research as a stand-alone method of trying to decide what happened. It can help to confirm the accuracy or reliability of the expert's opinion. It is not a tool for the judge to use herself independently when analysing the evidence. She is not the expert.*
>
> *86.Secondly, in areas of scientific controversy and uncertainty (such as causation of intracranial bleeding in infants), there is a risk that the judge may be drawn into too extensive an analysis which will distract from the central issue in the case. There is a danger that the obligations on the expert in Practice Direction 25B to identify the literature and research material they have relied on in forming their opinion and to summarise the range of opinion on any question to be answered will lead the judge into an unnecessarily detailed analysis of the material.*

> *87.Thirdly, there are particular difficulties with the research literature about the causation of intracranial bleeding in infants* [….]
>
> *88.Fourthly, when a large volume of research is cited, there is a danger that it may obscure other important parts of the evidence. As Peter Jackson J observed in Re BR (Proof of Facts) [2015] EWFC 41 at paragraph 8, (cited by the judge at paragraph 169 of her judgment) "the medical evidence is important, and the court must assess it carefully, but it is not the only evidence". In A County Council v K D & L [2005] EWHC 144 (Fam) at paragraph 39, Charles J observed,*
>
> > *"It is important to remember (1) that the roles of the court and the expert are distinct and (2) it is the court that is in the position to weigh up the expert evidence against its findings on the other evidence."*
>
> *falls is well-trodden territory". The preponderance of expert opinion at the moment, which was reflected in the opinion of the experts in this case, is that low-level falls usually do not cause intracranial and retinal bleeding of the sort suffered by A but may do so on rare occasions. The presence of intraspinal bleeding is thought to be an indication of abusive shaking, but this is a grey area and the causes of such bleeding are not at present well understood. There was nothing in the research literature considered by the judge which materially added to this.*
>
> *91.By itself, the fact that the analysis in Annex A was disproportionately long would not, of course, justify interfering with the judge's findings. I am, however, persuaded by Ms Farrington's submission that the judge elevated her analysis of the research to such an extent that it became the prism through which she assessed the rest of the evidence.*

Baker LJ considered that while the first-instance judge had approached this matter conscientiously, "*she went astray in her treatment of the research evidence in a number of respects*" (paragraph 89).

> *90. The judge's exhaustive analysis of the medical literature and the expert evidence is testament to the care she devoted to this case. But on any view it was unnecessary and disproportionate. As I have already noted, the diagnosis of inflicted head injury, and in particular the question whether a baby can sustain intracranial bleeding from a low level fall, have been matters of controversy for a number of years. But the current state of medical opinion is clear. As Peter Jackson LJ recently observed in Re R (Children: Findings of Fact) [2024] EWCA Civ 153 at paragraph 15, "the debate about serious head injury from low-level*

Baker LJ agreed that the local authority had not provided the rigorous consideration of the literature the judge had sought, but "*it was not the role of counsel to provide an independent assessment of the literature. Literature and research material is only admissible in so far as an expert has referred to it in forming his opinion. Counsel's submissions could only extend to addressing the question whether the literature supported the expert's opinion. In fairness to local authority counsel, it should be pointed out that her submissions did contain a reasonably full summary of the evidence given by the experts including some of their references to research in their reports and in oral evidence*" (paragraph 92).

Baker LJ accepted that it was appropriate to consider the research literature given the experts' discussion of it, but the manner in which it occurred "*elevated the literature to a position of*

decisive importance which it did not warrant. There is a strong impression that she treated the research literature as the primary source of the opinion evidence and the experts' testimony as ancillary to it" (paragraph 93). Baker LJ also considered that the judge's summary of one paper "*was irregular and her conclusions about it were wrong*" (paragraph 96). Baker LJ reviewed the paper himself, and considered that the paper "*provides reliable support for the unanimous view of the expert witnesses as to the timing of injuries. The judge's reading of this paper led her to downplay the significance of their evidence as to timing. I recognise, of course, that, in putting forward my interpretation of a paper which was neither considered by nor put to the experts, I could be said to falling into the same error as the judge. The real problem is that the paper was not properly part of the evidence because it was not considered by any of the expert witnesses. This is particularly important because the judge attached significant weight to it when reaching her conclusion that the child had suffered an earlier acceleration/deceleration event at some prior to the sofa incident*" (paragraph 102).

Baker LJ ultimately considered that the judge's conclusions had been "*based on a mixture of her reading of the literature and speculation, not on the evidence*" (paragraph 103). The judge should have allowed all experts to comment on the theory considered by the judge, and not only raise this point briefly with the single expert who disagreed with the other four.

Baker LJ concluded that the fact-finding conclusions could not stand, noting that "*important elements of the judge's ultimate findings were never explored with the parents in evidence nor with counsel in submissions*" (paragraph 110).

The appeal was allowed, and the judge's findings of fact set aside. As the children had already been returned to their families, the Court of Appeal proposed to allow the local authority leave to withdraw the proceedings.

Comment

In a judgment equally applicable in proceedings before the Court of Protection, the Court of Appeal has given a clear and robust summary of existing case law on how research literature should be treated, and what its role should be within proceedings. Such evidence enters through experts to support their opinions, but is not 'stand-alone' evidence for the court, and the court should resist the temptation to act as its own expert. The facts of this case plainly troubled the first-instance judge, where a child had come to major injuries in a manner which appeared to be possible, but quite unlikely. However, as the Court of Appeal noted, the findings made by the first-instance judge were also unlikely, and where this theory was not advanced by the parties, it had not been ventilated in the proceedings and fully considered by the experts. The Court of Appeal's judgment in this matter is a caution for the court to consider its own limitation in looking at research literature, and to ensure that findings of fact are grounded in the evidence specific to the case.

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Arianna practices in mental capacity, community care, mental health law and inquests. Arianna acts in a range of Court of Protection matters including welfare, property and affairs, serious medical treatment and in inherent jurisdiction matters. Arianna works extensively in the field of community care. She is a contributor to Court of Protection Practice (LexisNexis). To view a full CV, click here.

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Nicola appears regularly in the Court of Protection in health and welfare matters. She is frequently instructed by the Official Solicitor as well as by local authorities, CCGs and care homes. She is a contributor to the 5th edition of the *Assessment of Mental Capacity: A Practical Guide for Doctors and Lawyers* (BMA/Law Society 2022). To view full CV click here.

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Katie advises and represents clients in all things health related, from personal injury and clinical negligence, to community care, mental health and healthcare regulation. The main focus of her practice however is in the Court of Protection where she has a particular interest in the health and welfare of incapacitated adults. She is also a qualified mediator, mediating legal and community disputes. To view full CV click here.

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Simon has wide experience of private client work raising capacity issues, including *Day v Harris & Ors* [2013] 3 WLR 1560, centred on the question whether Sir Malcolm Arnold had given manuscripts of his compositions to his children when in a desperate state or later when he was a patient of the Court of Protection. He has also acted in many cases where deputies or attorneys have misused P's assets. To view full CV click here.

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Adrian is a recognised national and international expert in adult incapacity law. He has been continuously involved in law reform processes. His books include the current standard Scottish texts on the subject. His awards include an MBE for services to the mentally handicapped in Scotland; honorary membership of the Law Society of Scotland; national awards for legal journalism, legal charitable work and legal scholarship; and the lifetime achievement award at the 2014 Scottish Legal Awards.

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Conferences

Members of the Court of Protection team regularly present at seminars and webinars arranged both by Chambers and by others.

Alex is also doing a regular series of 'shedinars,' including capacity fundamentals and 'in conversation with' those who can bring light to bear upon capacity in practice. They can be found on his website.

Adrian will be speaking at the following open events:

1. The World Congress on Adult Support and Care in Buenos Aires (August 27-30, 2024, details here)
2. The European Law Institute Annual Conference in Dublin (10 October, details here).

Advertising conferences and training events

If you would like your conference or training event to be included in this section in a subsequent issue, please contact one of the editors. Save for those conferences or training events that are run by non-profit bodies, we would invite a donation of £200 to be made to the dementia charity My Life Films in return for postings for English and Welsh events. For Scottish events, we are inviting donations to Alzheimer Scotland Action on Dementia.

Our next edition will be out in September. Please email us with any judgments or other news items which you think should be included. If you do not wish to receive this Report in the future please contact: marketing@39essex.com.

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