

ROGER McCARTHY QC

105 REPORTED CASES (In reverse chronological order)

Re LT and RT v Local Authority (FD) 2010 EWHC 1910 (Fam), 2011 1 FLR 594 (Vulnerable adult, court's approach to determination of capacity and use of statutory terms as opposed to case law)

Re A (Abduction: Interim Directions: Accommodation by Local Authority) (CA) 2010 EWCA Civ 586 , 2011 1 FLR 1 Child abduction, power of court to order local authority to accommodate abducted child under section 5 CACA)

R (Green) v South West Strategic Health Authority and ors (Admin Ct) 38 BMLR 661 ,2008 EWHC 2576 (Admin) (Eligibility, guidelines, health care, eligibility criteria for continuing NHS care)

R (Johnson) v Havering LBC 2007, YL v Birmingham CC (CA) 2007 Times 2.2.07, 2007 2 WLR 1097 (human rights consequences of transfer of care homes from public to private sector).

R (Chavda and others) v Harrow LBC 2007 (Admin Ct) Lawtel. 2008 ACD 31 p111-116 (Change to eligibility criteria for adult care services, human rights, disability discrimination.)

Birmingham CC v H and H 2006 (FD) 2006 Family Law 227 (test on reconsideration of earlier family court findings in fatal injury case)

R (Johnson and ors) v Havering LBC and SoS Constit Affrs 2006 (Admin Ct) 2006 BLGR 631 (human rights, Leonard Cheshire case, National Assistance Act).

R (Lindley) v Tameside MBC 2006 (Admin Ct) 2006 NPC 102 (legitimate expectation and care facilities)

Birmingham CC v H 2 2006 (FD) LTL 8.12.06 Lawtel 2007 Family Law 161, 2007 95 BMLR 159 (reinvestigation of medical evidence after earlier fatal findings and approach to be adopted, Prof Meadow challenge , issue estoppel, fresh findings on novel paediatric theories)

R (Johnson) v Havering LBC 2006 (Admin Ct) 2006 ACD 95,2006 9 CCLR 503 (human rights, Leonard Cheshire homes case, local authorities powers and duties, care homes)

Andrew Moore v Care Standards Tribunal and CSCI 2005 (CA) 2005 1 WLR 2979 ,2005 8 CCLR 91 (legal test of care home establishment)

Rachel Gunther v SW Staffs PCT 2005 (Admin Ct) 2005 BMLR 60 ,2006 9 CCLR 122,(PCT powers under the National Health Service Act 1977 to establish

independent user trust)

Partington v CSCI 2005 EWCST 591 (CST Bailii report) (management of care homes and significance of falsification of medication records)

Re An Inquiry: Restraint on Publication /A Local Authority v A Health Authority and Ms A 2003 (FD) 2004 Fam 96,2004 1 AER 480,2004 2 WLR 926 (inherent jurisdiction and restraint on publication of inquiry report)

Re B (Adoption: Removal from Jurisdiction) B v Birmingham CC 2004 (CA) 2004 2 FCR 129, 2004 2 FLR 387 (status of placement made abroad by local authority in breach of adoption law)

R (L) v Calderdale MBC 2004 (Admin Ct) 2005 ACD 2, 2005 8 CCLR 101 (judicial review of child residential care decision)

Re A (A child) 2004 (CA) 2005 1 FLR 639 (application for leave to remove from the jurisdiction: test case on applicability of Payne v Payne to temporary leave application)

Alternative Futures v NCSC (CST) 2004 7 CCLR 171 (test case on supported housing and deregistration of establishments under Care Standards Act 2000)

Raphael Medical Centre Ltd (Neurological Rehabilitation) v CSCI (2004 CST) Bailii report 2002 EWCST 54-55 EA (test case on definition of independent hospital within section 2 (3) Care Standards Act; status of anthroposophical medicine as “medical treatment”)

RE P (Parental Dispute: Judicial Determination) (CA) 2003 1 FLR 286 (dispute over parental selection of schools)

R (Dudley) v East Sussex County Council 2003 (Admin Ct) 2003 ACD 353 ,2003 CCLR 18 Lawtel TLR (home closures, consultation human rights)

McKellar v Hounslow LBC (QBD) 2003 Lawtel, 2003 BMLR (home closure, freestanding HRA claims, interlocutory relief)

R(W) v NCSC 2003 (Admin Ct)2003 EWHC (Admin) 621 Bailii 2004 ACD 57 (statutory appeal to court against Registered Homes Tribunal; adequacy of reasons)

Re A 2003 (FD) (Care Proceedings: Asylum Seekers) 2003 2 FLR 921 (interplay between Children Act and immigration control)

Puretruce Health Care Ltd v National Assembly of Wales 2003 EWCST 371, Bailii report Care Standards Tribunal (“CST”)(appeal against National Assembly Care Home decision)

Joyce v NCSC 2003 EWCST 492 ,Bailii report (CST appeal against NCSC cancellation decision; test to be applied)

R (NAGALRO) v CAFCASS 2002 1 FLR 255 2001 FL 877 (Admin Ct) (statutory procedure on introduction of terms and conditions for childrens’ guardians, judicial review)

Cowl v Plymouth 2002 (CA) Times Law Report 8.1.02 2002 1 WLR 803 (judicial review and alternative dispute resolution in social services cases)

Re S (Facilitated Communication) 2001 1 FLR 148 (FD)(learning disabilities communication system and abuse)

Sanjivi v SE Kent HA Times Law Report 19.12.00 2001 59 BMLR 115 (Admin Ct) (preconditions to registration)

Kowlessur v Suffolk (CA) 2000 Lawtel, ILR , 2001 BMLR 88 (statutory appeals-nursing homes)

R (S) (Sexual Abuse Allegations: Local Authority's Response) 2001 2 FLR 776 2001 LGR 318 (Admin Ct) (Threshold in domestic law for publication of information: human rights)

R (Bodimeade) v Camden LBC 2001 4 CCLR 246 2002 63 BMLR 154 (Admin Ct) (judicial review of National Assistance Act closure decision)

R (L),R(R) v Manchester CC 2001 Times Law Report 29.12.01 2001 FL 923 2002 1 FLR 43 (Admin Ct) (fostering allowances, human rights ,judicial review)

Cowl v Plymouth CC 2001 4 CCLR (Admin Ct) (closure of residential homes, legitimate expectation, human rights, judicial review)

Re N (Leave to Withdraw Care Proceedings) (FD) 2000 1 FLR 134 2000 FL 2000 FCR(withdrawal and human rights)

R v Local Authority and Police Authority in the Midlands ex p LM (QB CO) 2000 UKHRR 143,2000 FL 83 2000 FLR / FCR (disclosure of information and human rights)

R v Bath Mental Healthcare Trust and ors ex P Beck (QB CO) 2000 3 CCLR 5 (target NHS duties and social services collaboration).

R v Leicestershire CC ex p Thompson (QB CO) 2000 3 CCLR 45 (registered homes tribunals and judicial review).

Re A (Adoption: Mother's Objections) (FD) 2000 FL 393 ,2000 1 FLR 665 (adoption:appeal)

Re F (Adult Patient) Times 25 July 2000 (CA) 2000 2 FLR 512 2000 3 WLR 1740 2000 55 BMLR 51 (mental health/declaration under the inherent jurisdiction).

Bhikha v Leicester CC O v Wandsworth LBC (CA) 2000 4 AER 590,2000 1 WLR 2359 2000 LGR 591 (immigration, human rights and National Assistance Act) and local authority services)

R v Cumbria CC ex p Cumbria Professional Care Ltd (Admin Ct) 2000 3 CCLR 79 (challenge to mixed economy of community care)

R v Head Teacher of Crug Glas School and Council and City of Swansea ex p D 2000 ELR 69 (QB CO) (special educational needs, home tuition, non resuscitation policy)

R v Chief Adjudication Officer ex p B (CA) Times December 1998 1999 1 WLR 1695 (welfare benefits and asylum seekers)

Re L (Care: Confidentiality) (FD) 1999 1 FLR , 1999 FL 165 (FD)(child care/ criminal proceedings interrelation)

Singh v Bracknell BC (QB CO) 1999 COD 36 1999 1 ELR 51 (parental preference / special educational needs)

In re Whitbread No. 2 (QB CO) 1999 COD 370 ((mental health: extension of detention under section 29(4) MHA).

R (Crestacare (GB) Ltd) v Northumberland HA Administrative Court (“Admin Ct”) 1998 Bailii 1998 ALR 442 (judicial review of care home prosecution)

R v Coventry City Council ex p CHOICE 1998 1 CCLR 379 (QB CO) Judicial review; fixing of residential homes payment rates)

Dlodlo v Mental Health Review Tribunal For the South Thames region SoS Home Dept Eastbourne and County Health Care Trust (CA) 1997 COD 40 (mental health test case)

Fairpo v Humberside CC (DC) 1997 ELR 12 1997 COD 1997 1997 1 FLR 339 1997 1 AER 183 1997 3 FCR 181 Times 15 August 1996 (foster parent appeals against SEN tribunal decisions)

R v FEFC and Bradford MDC ex p Parkinson (QB CO) Times 30 October 1996 QBD/CO 1997 ELR 204 1997 2 FCR 67 (Community care, disabled persons, further education)

R v Birmingham City Council ex p A (QB CO) Times 19 Feb 1997 1997 2 FCR 357 1997 2 FLR 841 (local authority complaints procedures)

R v North Yorkshire County Council ex p Hargreaves (QB CO) Times 21 June 1997,1997 COD 390 1997 96 LGR 39 (holidays for disabled persons).

In re Whitbread (QB CO) (Mental Patient: Habeas Corpus) (CA) Times 14 July 1997 1998 Med LR 103 1998 39 BMLR 94 (mental health section 3 procedure).

Beds CC v DPP (DC) 1996 Local Government Review 201 1996 1 Cr App R (S) 322 (compensation for crimes of children in care)

Harrow LBC v Donohue (CA) 1995 1 EGLR 257 (injunction: trespass to land)

R v Education Appeal Committee of Leicestershire CC ex p Tarmohamed (QB CO) 1996 COD 286 QBD/CO 1997 ELR 48 (parental preference school appeals)

R v Islington LBC ex p Rixon Times (QB CO) 17 April 1996 1997 ELR 66 1996 32 BMLR 136 QBD/CO (disabled persons services and education)

R v Secretary of State for the Home Department ex p D Times May 10 1996 (CA) (mental health /hospital discharge)

Steane v Chief Adjudication Officer and anor (HL) 1996 87 LGR 1996 1 WLR 1195 (attendance allowance eligibility)

R v Berkshire CC ex p Parker Times (QB CO) 15 August 1996 1997 COD 64 QBD/CO 1997 33 BMLR 71 1997 95 LGR 449 (community care /judicial review)

Cambridgeshire County Council v R (FD) (An adult) 1995 1 FLR 50 (decision making for adults with learning disabilities)

Re C (A Minor: Expert Evidence Disclosure: Practice) (FD) 1995 1 FLR 204 FD (child abuse: judicial guidelines for disclosure and experts)

R v Devon CC ex p Baker (CA) 1995 1 AER 73 1994 ALR 113 1993 11 BMLR 141 CA (closure of council residential homes)

North Yorkshire County Council v Selby Youth Court (DC) 1995 1 WLR 1 QBD/DC (compensation for crimes of children looked after by local authorities)

R v Horsham DC ex p Wenman (QB CO) 1995 1 WLR 680 1995 ALR 73 QBD/CO (judicial review /guidelines on wasted costs applications)

R v Islington LBC ex p McMillan ,R v Gloucestershire CC ex p Barry (QB CO) Times 21 June 1995 1996 COD 67 1996 30 BMLR 20 1996 94 LGR 593 QBD/DC (disabled persons/judicial review)

R v Ealing and Hounslow Health Authority ex p Wilson (QBD/CO) 1995 30 BMLR COD 137 (nursing homes cancellation procedures)

R v Newham LBC ex University of East London (QB CO) 1993 COD 427 1994 RA 13 (rating repayments: entitlement to sum due on educational reorganisation)

R v Barnet LBC ex p B (QB CO) 1994 1 FLR 592 1994 ELR 357 QBD/CO (judicial review challenges to day care provision)

Birmingham CC v D Birmingham CC v H (FD) 1994 2 FLR 502 (care proceedings and orphans)

Re P (A minor: care evidence) (FD) 1994 2 FLR 751FD(threshold criteria in care cases)

R v West Sussex CC ex p Wenman and ors (QB CO) 1993 ALR 145 also 24 HLR 669(gypsy site provision)

Re H (Care proceedings; Childs Wishes) (FD) 1993 1 FLR 440 FD (representation of disturbed older children)

Re H (A minor) (Section 37 direction) (FD) 1993 2 FLR 541 FD (interim orders in Children Act proceedings)

Re SW (A minor) (Care Proceedings) (FD) 1993 2 FLR 609 FD (courts power to make orders which were not sought)

D v D (CA) (County Court Jurisdiction in Children's Cases: Injunctions) 1993 2 FLR 802 CA (inherent jurisdiction challenge to county court)

Harrow LBC v Tonge (CA) 1993 25 HLR 99 CA 1993 2 EGLR 155 (housing: right to buy: succession to tenancy of council tenant)

R v Humberside CC ex p Bogdal (QB CO) 1992 11 BMLR 46 (judicial review of Registered Homes tribunal)

Isle of Wight CC v Humphreys 1992 (DC) 90 LGR 187 (legal appeal against Registered Homes Tribunal jurisdiction)

R v Gwynedd CC v B (CA) 1992 2 AER 317 1991 2 FLR 365 1992 7 BMLR 120 (judicial review of social services decision in relation to deceased child)

Kent CC v C 1992 (FD) 3 WLR 808 (Children Act /contact orders)

Ismail v Birmingham CC (QBD CO) 1992 ILR Lawtel (No common law limit on imposition of registration conditions)

R v Leicestershire Education Authority ex p Cannon (QB CO) 1991 COD 120 (Educational records /parental right of access)

R v Chief Constable of Kent ex p L (QB DC) 1991 87 Cr App R 1993 1 AER 756. (Judicial review of decision to prosecute)

R v East Sussex CC ex p R (QB CO) 1991 2 FLR 358 (judicial review of child protection decision)

R v Devon CC ex p L (QB CO) 1991 2 FLR 541 1992 ALR 99 (judicial review of child protection register)

Re JK (Trans racial placement) (FD) 1991 2 FLR 381 (adoption).

R v Shropshire CC ex p Bungay (QB CO) 1990 COD 392 (Gipsies/ planning)

R v Harrow LBC ex p D (CA) 1990 88 LGR 41 1990 3 AER 12 1990 Fam 133 (Judicial review of registration on child protection register)

Commission for Racial Equality v Dutton (CA) 1989 QB 783 1989 2 WLR 17 (racial discrimination and gipsies)

B v T (Custody) (FD) 1989 2 FLR 31 (custody cases and evidence)

R v Hove Juvenile Court ex p W 1989 2 FLR 145 FD (care proceedings expert evidence hearsay)

R v Brighton BC ex p Bunch Queen's Bench Crown Office ("QB CO") 1989 COD 558 1989 RTR 66 (Licensing of taxis : unmet demand)

Leeds CC v Azam 1989 RTR 155 (DC) (Licensing of taxis/ private hire)

R v Birmingham City Justices ex p Birmingham CC (CA) 1988 80 LGR 697 1988 1 AER 683 (Juvenile court care proceedings jurisdiction)

Swanbrae Ltd v Elliott 1987 19 HLR 96 (CA) (Rent Act grounds for possession-establishment of residence)

R v Bedfordshire CC ex p C Hertfordshire CC ex p B (QB CO) 85 LGR 218 1987 FLR 239 (Judicial review of social services decisions in relation to children in care).

Westminster City Council v Croyalgrange (HL) 1986 1 WLR 674 1986 84 LGR 84 (Licensing of sex establishments)

Coventry CC v T 1986 2 FLR 301 Family Division ("FD") (access to children in care)

Re V (Adoption Parental Agreement) Court of Appeal("CA") 1985 1 FLR 45 (dispensing with consent, minor mother)

Surrey CC v Benfell Farm Produce Divisional Court ("DC") 1983 1 WLR 1213, 1984 82 LGR 154,WLR (trade descriptions and European Union law)

Albert v Lavin 1981 3 WLR 955 1982 AC 646 House of Lords ("HL") (Defence to assault on police based on mistake of fact)

Also many reported Registered Homes Tribunal and Care Standards Tribunal decisions (for both regulators and providers) on www.carestandardtribunal.gov.uk (5 CST selected example cases in list)