

M v Lambeth Borough Council (No. 3)

[1985] FLR 1167

08/05/1985

Barristers

Private: Jonathan Cohen QC

Court

Family Division

Facts

Section 21A of the Child Care Act 1980 and the Secure Accommodation (No. 2) Regulations 1983 provide that a child in the care of a local authority shall not be placed in accommodation provided for the purpose of restricting liberty ('secure accommodation') unless, on application to a juvenile court, the court is satisfied that specified criteria are satisfied. Those statutory provisions (as amended with effect from 1 January 1984) apply, inter alia, to wards of court committed to the care of a local authority under s. 7(2) of the Family Law Reform Act 1969. By regs. 16 and 17 of the Regulations each local authority is required to appoint persons (the 'review panel') to review at intervals not exceeding 3 months the case of each child in secure accommodation. The 'review panel' is required to satisfy themselves that the criteria for keeping the child in secure accommodation continue to apply and that the placement of the child in such accommodation continues to be appropriate.

The child, a boy, was born in 1969. He had a disastrously unsettled history and, since the age of 5, had been a highly disturbed child. In December 1983, in wardship proceedings, he was committed to the care of a local authority under s. 7(2) of the Family Law Reform Act 1969 and the judge directed that he be kept in secure accommodation. Following the implementation of the amended s. 21A of the 1980 Act and the No. 2 Regulations, an application was made to the High Court for directions: see *M v Lambeth Borough Council* [1985] FLR 187. As a result of those directions applications were made to Lambeth juvenile court which authorized that the child be kept in secure accommodation until 18 December 1984. It was proposed to apply for a further authorization from the juvenile court but the 'review panel' were of opinion that the child should no longer remain in secure accommodation. As a result the matter was referred to the High Court for directions. Sheldon J held that the directions of the High Court were binding on the local authority whatever the view of the 'review panel': see *M v Lambeth Borough Council (No. 2)* [1985] FLR 371. As a result of the findings and directions of Sheldon J the Balham juvenile court authorized that the child be kept in secure accommodation until 17 June 1985. At a case conference involving all those responsible for the day-to-day care of the child it was unanimously agreed that the child remain in secure accommodation until his 16th birthday on 15 August 1985. The 'review panel', however, were of opinion that the child should be released immediately. The matter was again referred to the High Court for directions, the local authority advancing the view of the 'review panel' and submitting that the effect of s. 21A and the Regulations was that, apart from the juvenile court, the only

body entitled to decide whether the necessary criteria continued to exist to justify the retention of a ward in secure accommodation was the 'review panel'. The local authority further submitted that, even if the High Court were entitled to consider such matters it could not reveal its conclusions or direct that they be made known to the juvenile court to whom the matter would then have to be referred.

Held

(1) It was a misconception to argue that the persons appointed under reg. 16 of the Secure Accommodation (No. 2) Regulations 1983 to review a child's placement in secure accommodation (the 'review panel') was the only body (apart from the juvenile court) entitled to decide whether the necessary criteria existed to justify the retention of a ward in secure accommodation. The 'review panel' was no more than an agency of the local authority. It had no statutory function or duty in regard to the first placement of a child in secure accommodation. The local authority was not obliged to follow the 'review panel's' advice or accept any findings or recommendations it might make. Section 21A of the 1980 Act and the Regulations did not affect the overriding jurisdiction of the High Court in respect of wards committed to the care of a local authority. The statutory powers of a local authority over a ward of court committed to their care, including the power of placing the ward in secure accommodation, were to be exercised subject to any directions given by the court.

M v Lambeth Borough Council (NO. 2) [1985] FLR 371 followed

Re W (A Minor) (Care Proceedings: Wardship) [1985] FLR 879 distinguished.

(2) In the exercise of its overriding jurisdiction in respect of wards committed to the care of a local authority, the High Court had power to direct that its conclusions as to the placement of a ward in secure accommodation be disclosed to the juvenile court to which, under s. 21A of the 1980 Act and the Regulations, the matter would have to be referred. The juvenile court would be entitled to have regard to those conclusions even if not presented by way of oral evidence.

Per curiam : The procedure of a juvenile court did not appear to be so limited as to prevent it from considering, for example, a relevant medical report without the attendance in person of the maker and, where matters of history were relevant, a juvenile court could be informed of the views expressed in and the result of a case conference held by a local authority and of past events other than by the direct evidence of eye-witnesses.

(3) In this case, there was overwhelming evidence that it was in the child's best interests to remain in secure accommodation for a further 2 months until his 16th birthday; also that the necessary criteria existed to authorize such a course.

Therefore an order would be made to that effect.

Permission

Reproduced with kind permission from Justis 