

Re T (A child)

[2020] EWHC 220 (Fam)

07/02/2020

Barristers

Chris Barnes

Court

Family Division

Practice Areas

Public Children Law

Application by a Local Authority pursuant to the inherent jurisdiction for a declaration that it is in the interests of a looked after child [T] to receive a schedule of vaccinations.

The court considered that vaccinations lay at the least intrusive end of the scale of intervention and did not regard them as a 'grave issue' falling outside the scope of section 33(3) of the CA, which provides, inter alia, that where the local authority has a care order it has the power:

"(subject to the following provisions of this section) to determine the extent to which (i) a parent, guardian or special guardian of the child; or (ii) a person who by virtue of section 4A has parental responsibility for the child, may meet his parental responsibility for him."

provided that:

"(4) The authority may not exercise the power in subsection (3)(b) unless they are satisfied that it is necessary to do so in order to safeguard or promote the child's welfare." (section 33 (4))

bearing in mind the duty under s 22 of the CA:

'[b]efore making any decision with respect to a child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of-

... (b) his parents; and shall give 'due consideration' 'to such wishes and feelings of any..' parent 'as they have been able to ascertain.'

In this case, and given, inter alia, the father's "fundamental belief that neither the court nor the State, through the arm of the Local Authority, has any jurisdiction to take decisions in relation to his children..." and his 'great belief in the Cestui [Q]ue Vie Act 1666, which he interprets as conveying on himself a "decree of divine sovereignty.", the court was compelled to conclude that if the local authority had intimated an intention to exercise its power under s 33, the parent[s] would have invoked the

inherent jurisdiction in any event. There had been a significant history of the father having appealed almost every hearing and frequently sought to reopen findings. Hence, making the application under the inherent jurisdiction was appropriate in this given case, but, otherwise, the learned Judge could 'see no reason why what are ultimately routine vaccinations should not fall within the scope of the interventions contemplated by s.33(3) CA. Indeed it strikes me as disproportionate to expect a Local Authority to be required to apply to a High Court Judge to initiate proceedings, the result of which has been in every reported case to authorise vaccination."

The arguments on behalf of the parents were led by the mother. The court set out her case as being founded on the following basis,, namely "that she and her previous partner, and F with his former partner, have had children with multiple health conditions. She insinuates, as opposed to directly asserting, that these conditions may be linked to vaccination." [emphasis added]

The mother's submissions were, in part, based on research regarding i) objectionable ingredients in vaccinations, ii) the relative safety of separate as opposed to multiple vaccinations and iii) that children on good healthy balanced diet/correct nutrition build up health immune systems negating the need for vaccinations; tellingly such research was '(undisclosed for the purposes of th[e] Position Statement [on behalf of the mother)'. No research was disclosed during the hearing, although the father claimed to have it.

The court described the mother's submissions as 'attractively presented', but, again, tellingly, as 'tenuous and tendentious'. Arguments based on a lack of the necessary 'individuation...' in the approach of the local authority, based on the assessment of Dr Douglas, 'turned to dust' in the face of the adoption medical report which demonstrated a 'detailed and empathetic understanding of...' [T] the child, his patient.

To read the judgment [click here](#).