



Dorset
Council



Mental Capacity Act Conference
Equality and Diversity

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A Travelers Tale





Equality and Diversity



Current backdrop

Police, Crime, Sentencing and Courts Bill 2021

Proposes law to curtail where travellers can site themselves and includes giving the police the power to arrest on the spot, to fine people, and to confiscate peoples homes. In effect criminalising the current lifestyle of many travellers. Apparently - according to the government - directed at a minority but has implications for all people living in a roadside camp.

Channel 4's 60 Days With The Gypsies

Journalist Ed Stafford living with different travelling groups to gain an insight into their lifestyle and ongoing prejudice.

Recent controversy around Jimmy Carr `joke'

Prejudiced Norm Theory: Exposure to disparagement humour affects tolerance of discrimination against people targeted by humour (Ford and Ferguson 2004)

Case study

- P = A 77 year old white man from a travelling background: “Born in a tent, paid no rent”. Diagnosed with dementia and requiring daily assistance with daily living tasks. Living with grandson, his partner and their children for two years who were providing all care.
- Head of a big family most of whom live in Basingstoke or Bournemouth Poole area. Under the Care Act 2014, P recognised as an adult at risk as he has needs for care and support, is experiencing, or is at risk of , abuse or neglect, and as a result is unable to protect himself against this. Extensive family conflict manifesting in total estrangement at one end of the spectrum and violence and police involvement at other. This included accusations of neglect and financial abuse of P over the last few years and disagreement over who should be managing finances and where P should be living.
- Grandson moved out due to allegations of domestic violence. P left with grandson’s partner (who P referred to as his granddaughter) and her children with increased care package. Both P and ‘granddaughter’ happy with this arrangement and P had the mental capacity to make this decision.

Challenges

- Family members felt that P should not be left in the care of a `non family' member who wasn't from a travelling background.
- Difference in opinion between family members about what is best for P.
- Concern that P was being used as a pawn in a game of one-upmanship
- Concern about appropriateness of options being suggested.
- Safeguarding concerns about some proposed options.
- Some family members not understanding P's dementia and the implications of this.
- Non-acceptance of formal mental capacity assessment
- Threats of aggression
- Attempts to forcibly remove P and take him to alternative accommodation
- Accusations of Police bias against travelling community.
- Record number of complaints to adult services management.
- Hostile neighbours



Key points

- Person centred assessment – what was important to P
- What was important to family in terms of travelling background
- Importance of not stereotyping because a traveller
- Impact of dementia on decision making – educating the family about mental capacity
- Accommodating family's perception of authority and how this impacted on interactions with social services.
- Accommodating that some family were not literate
- Family shame about poor literacy and general feeling of being the underdog.
- Acknowledgement of prejudice/discrimination that family members had experienced from police, local community etc.
- Not taking criticism personally and continuing to involve all parties respectfully

Outcome

- P initially remained at home, despite family pressure which included family turning up on mass to try and forcibly remove P.
- After months of applying pressure to granddaughter, granddaughter withdrew offer of ongoing care and support and accommodation because of ongoing risk and threats made by family
- Offers made by other family members were withdrawn when the reality of P needing to be home sunk it
- P ended up in care home: concluded this would enable access to all family members so that they could promote his specific cultural needs and have contact with all – ironically it was the place he hadn't wanted to be but reluctantly accepted due to other options being withdrawn.
- Discussions had with home about accommodating cultural/person centred needs.
- Could have been a very different outcome if alternative options were still available.

An alternative scenario/afterthoughts

If the two conflicting options originally proposed (then withdrawn) by different family members had still been on the table, a further mental capacity assessment would have been completed to explore these

Likelihood that P would have lacked the mental capacity based on being unable to retain the information or to weigh up/balance the options available.

London Borough of X v MR, PD and AB [2022] EWCOP 1 (District Judge Eldergill) – in the case of considering where a Jewish man, MR, should reside: central to the conclusion reached was “what are MR’s religious and cultural needs, and how important is Jewish religious and community life to him? Furthermore, how important were these things to him when he had capacity and what he would be likely to want now if he still had capacity?”

Applied retrospectively in relation to P, what was most important to him was family. His original desire to remain living with his `granddaughter’ who had no travelling background supported this. Whilst his travelling past was important to him, it was far more important to his family, and whilst a best interest decision would have considered this, being with family – or having access to family - was clearly more important to P. As such is quite possible that a best interest decision would have been for him to remain in the care home whereby he could have access to all family members