

Social Work Online Team Training (SWOTT) toolkit

Human Rights Practice and the Mental Capacity Act

LEARNING OBJECT 2:

CASE STUDY 1: DOUGLAS MEYERS

This case study is based on the real case of *Southend-On-Sea Borough Council v Meyers* [2019] EWHC 399 (Fam) (20 February 2019) available at: <https://www.bailii.org/ew/cases/EWHC/Fam/2019/399.html>.

Mr Meyers was in his late 90s. He had been widowed many years earlier. He had a very positive outlook on life. He was a decorated war veteran. He used that fact to make points to the judge in the case about the freedom that he said he had fought for, and that he felt that he was being denied that freedom. He had a son whose lifestyle and actions were considered a real threat to his wellbeing. However, he had promised his wife before she died that he would always look after their son.

The local authority had been concerned about the conditions in which Mr Meyers was living for some time. One day in 2018, the local authority was confronted with a horrific scene:

“the bungalow had no furniture and that Mr Meyers had neither sheets nor mattress and was effectively sleeping on wooden slats. ...the glass panes from the patio doors had been removed leaving Mr Meyers’ room exposed to the cold. ...the boiler had been dismantled and there was, accordingly, neither heating nor hot water. There was no cooker, kettle, cups, fridge. There was very little by way of food... Mr Meyers was naked from the waist down... He was surrounded by flies. Under the bed and on the floor, there was food, general clutter, blood and faeces... He reported that he had neither food nor drink for two days. He was certainly dehydrated...”

Initially it was considered to be in his best interests to be in residential care. In residential care, however, he was expressing a wish to return home. The local authority found he had the mental capacity to make this decision. It also said that it could not safely implement a care plan - it could not commission one, they kept breaking down because of the son. The local authority argued that it had discharged its responsibilities. (Including carrying out work on the house!)

The court did not agree, making specific reference to his need for protection. The risk to life was said to arise from sepsis linked to bedsores. The judge said,

“Mr Meyers’ life requires to be protected and I consider that, ultimately, the State has an obligation to do so. Additionally, it is important to recognise that the treatment of Mr Meyers has not merely been neglectful but abusive and corrosive of his dignity. To the extent that the Court’s decision encroaches on Mr Meyers’ personal autonomy it is, I believe, a justified and proportionate intervention...”

Questions:

- Do you think the Court got the balance right here, between the human rights that emphasise autonomy, and those that emphasise protection from harm?
- What do you think would want to do if you were acting for a protected person who had the mental capacity to make a decision to live with a relative, but you considered that that decision was unwise because it was likely to result in significant harm and possible death?

