

Social Work Online Team Training (SWOTT) toolkit - Facilitator Notes

Human Rights Practice and the Mental Capacity Act

LEARNING OBJECT 2: CASE STUDY 1 - DOUGLAS MEYERS

- You might want to prompt a discussion about the difference between rights and duties, and who holds the relevant rights and duties in this scenario. The human rights framework generally gives human right to individuals, not the State; and therefore it is Mr Meyers who has rights and it is the local authority social workers who have duties.
- But how do duties without corresponding rights actually work in practice, for local authority social workers? Is this a case of, “damned if you do, damned if you don’t”, or is there a way of squaring this circle?
- What about a scenario where somebody wants to reject life-saving medical treatment? We would normally say that a person is entitled to reject life-saving medical treatment, even if it results in their death. So why would they not be entitled to reject life-saving social care interventions?
- In this case, both parties said that the restrictions on Mr Meyers were so significant that he was effectively being deprived of his liberty. The court did not agree. You might discuss whether you think that this was a deprivation of liberty.



Two important points that should come out of the discussion of this case are as follows:

- It is clear that the imperative to protect is powerful argument for social work intervention, even in circumstances where that intervention is unwanted; and that this is underpinned by an understanding of human-rights-based practice.
- It is the Court that can square the circle about the difference between a duty to protect and a right to protect: if you believe you have a duty to protect, a Court Order confirming this will also give you the tools and the right to protect.

