IN THE COURT OF PROTECTION
(Sitting at Leeds)
**[2021] EWCOP 22**

No. 13364813

Leeds Court of Protection
Coverdale House
15 East Parade
Leeds, LS1 2BH

Friday, 19 February 2021

Before:

THE HONOURABLE MR JUSTICE COHEN

B E T W E E N :

A LOCAL AUTHORITY — Applicant

- and -

(1) TA
(2) XA
(3) GA
(by her litigation friend, the Official Solicitor)
(4) SR
(GA's deputy for property and affairs) — Respondents

**REPORTING RESTRICTIONS: Court of Protection Rules 2017**

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MS L. CAVANAGH QC and MS E. KEEHAN (instructed by Local Authority) appeared on behalf of the Applicant.
TA did not attend and was not represented
XA did not attend and was not represented
MS F. GARDNER (instructed by Switalskis Solicitors) appeared on behalf GA.
SR did not attend and was not represented

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**J U D G M E N T**

**( v i a C V P H e a r i n g )**

MR JUSTICE COHEN:

1 This case concerns the health, welfare, and care of GA, an 87-year-old lady. She is a widow with six surviving children - three girls and three boys - and there are 10 grandchildren, by two of the girls. Since 2004, she has lived at an address in a city in West Yorkshire. She is the tenant of that property which is a housing association property. Of her six children, at all material times, two of the boys, TA and HA, have lived with her.

2 HA has some form of mental disability and is in receipt of a care package, the details of which are not known to me or, I think, to the social workers dealing with GA, but I have no reason to think that either (a) he presents any risk to GA or (b) he is able in any way to assist GA in her care.

3 TA is plainly an intelligent man and he presents himself as his mother's sole carer and the proprietor and manager of a care home - an inappropriate description of his mother's home but one which he says should entitle him to £1 million a week by way of salary, for the care that he says that he provides to GA and HA.

4 It is the case of the local authority that TA exercises abusive and controlling behaviour towards his mother and so dominates her life that she (i) is unable to enjoy personal dignity; (ii) has lost contact with her community and with her family, apart from HA and TA, and to some extent XA; and (iii) is denied access to important healthcare and treatment.

5 There is no question but that GA has lost capacity. In 2013, she was diagnosed with moderate to severe Alzheimer's dementia. By then, her memory score was low and she was reported as suffering from underlying function and communication difficulties. She suffers from a progressive neuro-degenerative state which leads inexorably to deterioration.

6 By 2019, when she was seen by Dr Singh, consultant psychiatrist, GA had deteriorated to a state of severe dementia. She has no autobiographical memory and she was unable even to say if she had had a meal or what it was even though it was just finished and visible in front of her. She could not answer any questions, for example, as to whether she had children and who they are. It is plain that for some considerable period of time, GA has had no capacity to make any decisions about her residence, health, or care needs. In consequence, the court has to take decisions about these matters in her best interests.

7 In these proceedings, GA has been represented by the Official Solicitor; also involved on her behalf is a deputy for her property and affairs appointed in December 2018 when, on application by the Office of the Public Guardian, her son TA was removed from his appointment under a Power of Attorney for Property and Financial Affairs. TA had been convicted in February 2016 of five counts of fraud and abuse of position. Those five counts related to money that he had misappropriated, that money being due to or for the benefit of his mother, and she was the subject of three of the five counts. TA was sentenced to a term of 45 months' imprisonment and I anticipate - although it is not clear on the papers - that he was discharged from prison in December 2017, when he would have served half his sentence, although, subsequently in November 2018, he served a short sentence following confiscation proceedings. TA says that his conviction was wrong and that he should never have been charged but, so far as I am aware, he has not appealed his conviction. He blames the local authority for wrongful prosecution of him.

8 The parties to these proceedings are the local authority bringing this application which, in shorthand, can be described as an application to remove TA from his mother's home and to bar him from return so that a local authority care package can be put in place to look after

his mother in the home. TA has not appeared in these proceedings although he was ordered to attend. He has presented the court with applications to adjourn on no less than five occasions this week, namely: at the start of the trial at 2pm on Monday, the first morning being assigned for reading; then at 10am on Tuesday; 2pm on Tuesday; 10am on Wednesday; and on Thursday morning, again in the early stages of the proceedings on that day. On each occasion, I dismissed the application giving a reasoned judgment which I will not repeat.

9 Every single day, TA has been sent the link and invited to join online, or by telephone, but he has refused to do so. He was completely aware of this hearing and has been notified on each occasion of the result of his applications, and other orders, which I have made during the hearing, as well as the terms of the orders that the local authority seeks. He seems to take the view that because he has been barred from making his own recording of the proceedings, he is therefore unable to participate in them, although quite what his thought process is, I am not sure.

10 XA is the third respondent to the proceedings. She is one of the daughters of GA and her role in her mother's care has been variable. I will come back to it later in the judgment, but GA did live in XA's home in a town in Greater Manchester for a period from February 2019 to March 2020, before she returned home to West Yorkshire. A statement has been filed purportedly from XA although it does not bear her signature. There are reasons for believing that it is not from her. Her role becomes significant because she is now put forward by TA as a temporary part of his care package for his mother and for the last couple of days, XA has been resident with her mother and two of her brothers, TA and HA, in a city in West Yorkshire.

11 The fourth respondent is SR, GA's deputy, who has been excused attendance from the hearing.

12 After that brief introduction, it is now necessary to give a history in greater detail. I am not going to give the whole of the history. I have been handed a very substantial chronology and it would take an inordinate amount of time to read it all out. I shall attempt to include the most relevant matters but I have read the whole of the document.

13 I will commence it for these purposes in August 2017, when GA was admitted to hospital having suffered a stroke. She was an inpatient for four months and the chronology says that during that period, she was supported by another son, RA. He, like all the family except for XA who is in Greater Manchester, lives in a city in West Yorkshire. On discharge, in December 2017, she returned to the home in West Yorkshire under a care agency provided package and on medication which included drugs for blood thinning, cholesterol, and high blood pressure.

14 The time of her discharge from hospital must have more or less coincided with TA's release from prison on licence. On 18 December 2017, TA cancelled the hot meal service which had been arranged by RA. On 4 January 2018, the social worker who had been allocated made her first visit to the home. TA provided a long list of the duties that he undertook including:

> "...dealing with the lies, deception, and general misconduct and fraudulent, criminal, underhanded behaviour and nefarious actions and agenda of the local authority."

15 He confirmed that his charging policy was £55,952.38 per day, a 24-hour day, for each of GA and HA, which is the equivalent of about £1 million a week and he sought to invoice the local authority.

16 On 24 February 2018, District Judge Geddes declared that the Lasting Power of Attorney, which purportedly had been granted to TA by GA, was invalid on the basis that GA lacked the relevant mental capacity at the time, both in respect of property and affairs, and health and welfare, and the District Judge directed the Public Guardian to cancel their registration. On 13 April 2018, a support plan authorising 25.5 hours of weekly support to GA was arranged.

17 By September 2018, the support workers were finding it difficult to get access to the property and eventually TA reported that GA was staying in Greater Manchester. On 4 October, TA rang to restart the service in West Yorkshire but he subsequently informed the workers after they were unable to gain entry that, in fact, she was still staying in Greater Manchester. This period appears to mark the end of any substantial support package being accepted by TA for his mother.

18 In December 2018, the social worker called to try and enquire if GA was in Greater Manchester. On 7 December, she received an email from TA saying that he would not co-operate in confirming the whereabouts of GA without the local authority disclosing in full any, and all, personal data held in respect of TA. There were a series of attempts, by the social worker, to locate GA in the city in West Yorkshire, and in the town in Greater Manchester, but they were unsuccessful even though police tried to assist.

19 On 28 February, on a visit accompanied by the police, TA was seen from an upstairs window of the house in West Yorkshire. He denied that GA was present but refused to open the door. Even when the police said that they would force the door if he did not permit entry, he still declined to open the door. The police broke the lock and searched the property, and GA was not present. TA recorded the events on his telephone.

20 On 1 March 2019, accompanied by the police, a visit was made to XA's address in Greater Manchester. XA was present but refused to open the door. The police forced entry and GA and HA are reported to have been found locked in a downstairs room. When GA was seen by the service manager, she had no immediate concerns about GA's personal care. XA expressed that she did not wish to continue caring for GA.

21 A visit was arranged for 13 March to GA in Greater Manchester. TA and XA would provide no information about her, and XA refused to engage because she was cross about the door having been broken by the police gaining entry.

22 On 1 April, TA emailed the local authority service manager saying that GA had fallen down a flight of stairs and died. He said he held the service manager fully responsible for her death. Eventually, it transpired that, in fact, GA had not died. TA thought it was "an April Fool's joke". This might better be seen as typically manipulative behaviour by him.

23 The local authority continued to keep its care plan under review and eventually determined that it would be in GA's best interest to move to live with her daughter MA in West Yorkshire. In the meantime, GA remained in Greater Manchester and visits were made.

24 On 1 May 2019, District Judge Geddes made orders which included: that TA should allow the local authority access to inspect the premises in West Yorkshire; and that TA shall not make any audio or visual recordings. He had been in the habit of doing that but this was the

first time that he was expressly prohibited from doing so by court order. The local authority plan changed as time went on but GA remained in Greater Manchester pursuant to the court orders. Visits were undertaken intermittently to Greater Manchester to visit GA. Notwithstanding the court order, on visits on 10 and 17 July 2019, TA was present and appeared to be wearing smart glasses with the ability to record audio and video.

25 On 3 July, an application was made by the Office of the Public Guardian for injunctions obliging TA to remove video clips which he had posted on a YouTube channel. On 22 July 2019, District Judge Geddes made an order requiring TA to remove from YouTube the recordings of GA and of the special visitor, who had attended in July, and of any other person and other written material which includes content relating to the proceedings. The order prohibited the publishing or broadcasting of any material which might be likely to, directly or indirectly, identify GA as being a person who is the subject of proceedings under the Mental Capacity Act. It is the case of the local authority and the Official Solicitor that the orders of District Judge Geddes, prohibiting the making and publication of audio and visual recordings, have been repeatedly breached.

26 On 21 August, at another hearing before District Judge Geddes, TA attended the court building but refused to enter the courtroom after he had been told he would not be permitted to record the proceedings. An order was made that social workers from the local authority and the Official Solicitor's representatives must be given access to GA at the home of XA on specified times and dates. Notwithstanding that, the local authority was refused access by XA to her property. She refused access on various occasions because the local authority had not fixed her door. On 8 October, once again, access was refused by XA. On 9 October, the local authority restored the matter to the court in the light of their inability to gain access to GA. On 12 November, District Judge Geddes, when making a case management order which included the instruction of Dr Singh, ordered XA to allow social workers, Dr Singh, and interpreters to access her property for the purposes of assessment of GA, and barred XA from interfering with the visits.

27 Later in the same month, visits were made but XA was resistant to them and provided little information to assist in establishing what GA's care needs were. As a result, the local authority concluded that it would be best to remove GA to an assessment bed in a local authority care home setting. Dr Singh was permitted to visit and she concluded that GA lacked capacity to consent to the place of residence, care and contact with others. However, she records that her assessment was significantly compromised by the:

> "...lack of non-biased information about her day-to-day functional impairments and the level of care needs and undermined by XA's repeated intrusion into the assessment process."

28 On 6 December, District Judge Geddes made further orders requiring XA to allow social workers and interpreters to visit her Greater Manchester property to see GA and barred interference. She went on to make an order preventing TA from being present during those visits. On 17 December, a visit was made to Greater Manchester by social workers. XA was reported to be unwell and unable to talk to social workers and XA's husband was unavailable as it was afternoon prayers. As a result, GA was not seen.

29 On 13 January 2020, a different sister, DA, was seen. DA considered that GA her mother should live with either MA or XA, her other two sisters. If she was living in West Yorkshire with TA, she would require carers. On 15 January, RA was seen. He acknowledged that his property would not have been suitable for GA to reside in. He was content for his mother to

remain living in Greater Manchester but went on to say that he had last been able to see GA some 18 months previously in August 2018.

30 On 20 January 2020, District Judge Geddes made an order that it was in GA's best interests to remain at XA's home in Greater Manchester until further order and no party should attempt to remove her from this address. On 11 February, at a best interests meeting, the social worker concluded that it was in GA's best interests to remain in Greater Manchester with XA. TA disagreed. On 12 February, TA sent to parties and non-parties a link to a YouTube video of a visit by the solicitor instructed on behalf of GA to GA, her client. Not only would that appear to be in plain breach of the order of District Judge Geddes, but almost certainly was a breach of legal professional privilege. He also sent an email to parties and non-parties containing a YouTube link to a video recording of the best interests meeting convened on 11 February 2020. The Court of Protection proceedings were identified as was GA. It is hard to see that as being consistent with the order of District Judge Geddes. These are just several of many occasions on which videos of meetings have been put on YouTube by TA. I will not go through all of them but they are set out in the chronology.

31 On 19 February, the local authority again concluded that it was in the best interests of GA to remain living in Greater Manchester with XA, subject to conditions. On 25 February, TA sent an email from his mother's email address to the parties and non-parties, including 86 elected members of the local authority, referring to: the Court of Protection proceedings; the Official Solicitor's role as a litigation friend; Dr Singh's evidence; and attaching the video of GA's solicitor's visit to GA.

32 There were many other procedural steps and communications which I will not detail. I jump now to 29 July when TA spoke to the social worker and informed him that GA had been living in West Yorkshire, since 10 March. There was thus a period of three and a half months in which this case had been proceeding on an entirely false basis that GA was in Greater Manchester when, in fact, she was in West Yorkshire. TA explained that XA had been stressed by the involvement of social workers and police; that she had difficulties in her personal life; and that it was, therefore, better for his mother to return to live with TA in West Yorkshire. This is the one breach of the court orders which it appears TA accepts although he does not for a moment accept that he was acting other than in GA's best interests. He confirmed that CCTV was used in the home and that he was providing personal care.

33 On 8 September 2020, the Official Solicitor asked for the matter to be urgently restored and sought an order that GA should be returned to live in Greater Manchester. That was met by applications by TA on 17 and 18 September for:

> "(1) Permission to instigate committal proceedings against HMCTS administration staff for violating the penal transparency notice on this case; and
>
> (2) To take reprisal action against each party in this case for once again failing to strictly adhere to the order dated 14 September by Judge Geddes in their blatant late filing of the documents."

34 On 21 September 2020, TA informed the court that, once again, he was recording the hearing. He knew that he was not allowed to do this. It was explained that such an action was a criminal offence and he was disconnected from the hearing. An order was made by District Judge Geddes that it is in GA's best interests to live at the home in West Yorkshire

and no party should attempt to remove her from this address. I surmise that the District Judge took the view that since GA had been there for six months, albeit unknown for much of that time to the local authority, a further change would not have been in her best interests.

35 I move now to 27 September and the options analysis prepared by the local authority which said that it was unable to implement the care plan and provide care within TA's home in West Yorkshire as TA refused to stop filming carers in the home. As a result of that, the provider of the care staff withdrew and no one else was willing to take on the service if the carers would be subject to TA filming and recording them. In fact, no provider was willing to take on the role if TA remained in the premises. That is where matters lie today. I need say little more about the history.

36 TA's communication with others has remained prolific to the extent of being extremely difficult to handle. I do no more than refer to the judgment of Cobb J of 22 January 2021 following the hearing on 15 January 2021 (*A Local Authority v TA & Others* [2021] EWCOP 3).

37 I intend to jump now to the orders that Cobb J made on 15 January 2021. On that occasion, at a remote hearing, TA appeared. The order recites that the judge felt compelled exceptionally to apply the mute facility on the video platform on one occasion to allow the judge to speak to TA without interruption. The judge once again refused TA's application to record the hearing and subsequent hearings in the proceedings and TA then left the hearing on the basis that he was no longer willing to participate in the same. His refusal to participate in the hearing before me may owe much to the order which refused TA permission to record. This can be nothing other than an excuse.

38 The order went on to set out how this matter was to proceed for the hearing fixed for this week. It included provision for the filing of evidence including evidence by way of a witness statement from TA. TA had not filed a witness statement by 29 January 2021 as ordered, or at all, notwithstanding the order which required him, amongst other things, to address the following issues:

(a) Confirmation as to whether GA has been seen by any medical professionals recently and, if so, with what outcome;

(b) As to if and where she is registered with a GP;

(c) What contact GA is having with others;

(d) What care he is currently providing to GA;

(e) Whether TA is able and willing to allow carers into the home; and

(f) Where he believes it would be in GA's best interest to: live; how she should be cared for there; and what professionals she should have contact with, and how this can best be facilitated.

39 This would have been essential evidence before me; yet TA has failed and refused to provide it. The order then went on to provide directions for the hearing before me by way of a hybrid hearing but that TA was to attend in person. He has not attended.

40 A further order was made limiting the correspondence that TA should have with the court to stamped mail. This has not stopped TA providing the court during this hearing with no less than five unissued emailed applications to adjourn and a large number of emails containing

links to videos on YouTube. I decided to deal with those applications notwithstanding the terms of the order of Cobb J because they related to this specific hearing. In each of my other judgments, I have dealt with my approach to the video clips and set out those that I have seen, and those which I have not watched, and I will come on shortly to what I have been sent today.

41 It had been intended that I should deal, first of all, with the committal application brought by the local authority and Official Solicitor for the alleged multiple breaches by TA relating to the confidentiality of these proceedings and of the identity of GA. Subsequently, the local authority applied to vary the order to adjourn the committal proceedings to another day. Cobb J acceded to that invitation and I am extremely grateful to him for doing so because it would have been impossible to conclude this hearing within the time available if dealing also with committal proceedings. It has allowed me to concentrate on the core issue, namely what is in GA's welfare best interests going forward.

42 The rival contentions are as follows: The local authority and Official Solicitor seek injunctive orders removing TA from the premises so that the local authority can install a care team to look after GA, to enable her to access medical treatment and care, and to enable her to have contact with members of the family other than TA, i.e., both her children and her grandchildren. It is not known at the moment what contact, if any, she is having with HA, even though he lives in the same house, because he has a different care team and GA's social workers never see him on their visits to the home. The proposal of TA is that he should remain in charge of his mother's care in the home with at least the temporary assistance of XA who has moved in there with him.

43 On 26 and 27 January, visits were made by the social workers and the ISW instructed to the home and on 9 February by the Official Solicitor's representative as provided for in the order of Cobb J. Those visits did nothing to reduce concern. On the 26th and 27th, GA was seen lying only in bed and complaining of considerable pains in her leg and chest. So far as is known, she has not seen a doctor since 2019. Local authority enquiries have not revealed any registration with any GP so far as can be ascertained. Her pain did not appear to be being treated. TA refused to give any indication as to what, if any, medication GA was receiving and none was visible. Nor was it clear whether her treatment for her blood pressure, her cholesterol, or her blood thickening was being provided. GA appeared to be spending her time lying in bed but it was impossible to know whether or not she had developed bedsores or the like.

44 The appearance to the local authority was that GA was completely isolated. There was no other member of her family seeing her other than TA until a few days ago when XA appeared. As I have already mentioned, the extent of HA's presence in her life was impossible to assess.

45 As a result of the concerns that there were about GA's current state of health, the local authority applied at the start of the hearing, and I ordered, that GA should be visited by a community medical team. This was intended to happen after court on 16 February but, because of the lack of interpreters, did not take place until 17 February. It was only on the morning of 17 February that TA, in the course of all of his emails seeking an adjournment, mentioned that his sister had moved in from Greater Manchester. This came as a considerable surprise to the local authority because their social worker, Mr Y, had visited XA on 11 February. He did so because a statement had purportedly been filed by XA, to which I have already referred, bearing the date of 5 February, saying that she would "temporarily move in to live with her mother". The statement was written in fluent English and XA speaks no English.

46 Mr Y went to the house in Greater Manchester to ask XA about the extent to which she wanted to be involved in the proceedings and whether she really was going to move back in to help look after her mother. XA was not willing to speak to Mr Y but her husband told Mr Y that they knew nothing about any statement from XA and she had no intention of participating in the case.

47 I have to say I regard it as unlikely that this statement came from her. I think it is highly probable that it was drafted by TA. That does not mean that XA might not have approved it but, in the circumstances, I am not prepared to put any weight on its contents. I therefore made an order that TA permit Mr Y, or another social worker, to call at the home and interview XA on her own as to exactly what her role in the future might be. It was an unproductive visit as I will explain shortly.

48 TA thought it appropriate to video record the attendance by Mr Y on 17 February and the visit by the medical team. He posted those videos to the court and I have seen them. I had, of course, made an order that there should be no recording of the visits by the medical team or by the social worker. That order was ignored.

49 The visit by Mr Y was the first in time. He called at the property to see XA, and the extent of TA's dominating character was vividly exposed in the recording. He set the agenda. He was highly challenging to Mr Y, demanding that before he could see GA, he must answer TA's questions. Those questions were put in a loud and hectoring manner and there was no prospect of Mr Y being able to provide satisfactory answers to TA. He, accordingly, left and went back to his car to speak to his superior and then tried again. On the second visit, XA, it seemed to me at the invitation of TA, denied that she wanted to speak to him and as he left, TA said to Mr Y, "We are all Muslims and you are a traitor."

50 The visit by the two nurses from what is described as the "frail elderly virtual ward" at West Yorkshire was, if I may say to them, extremely well handled by experienced nursing staff. It was very easy to see how others, less trained and less professional than these two ladies were, would find TA impossible to deal with. They were allowed to see XA and they provided me with a report for which I am very grateful.

51 They entered the room where GA was in bed and XA was present. I had ordered that they be allowed to see GA on her own but there has not been any suggestion that XA interfered with the examination. Indeed, TA requested that no questions should be put to XA and so none were. The nurses asked TA if his mother was taking any medications. TA stated he was not prepared to answer any questions.

52 On reaching GA in bed, they introduced themselves but received no answer from her. Observations were checked, that is temperature, blood pressure, heart rate, oxygen, saturations, and respiratory rates and all were within normal parameters. However, GA would not accept a full examination and so there was no cardio or respiratory examination, nor any inspection of her skin; nor would she allow bloods to be taken for a blood count or renal function check, as would normally be the practice on a first assessment by the virtual ward.

53 The nurses returned a few hours later when GA had changed position and she then allowed a chest examination to take place, which was unremarkable. She continued to decline an assessment of the skin, blood sampling, or a Covid swab, the latter particularly regrettable as it had been the grounds of TA's application for an adjournment on the first day that he felt his mother might have Covid. Once again, TA refused to discuss whether his mother had any medications or from where he might have obtained from. The assessment was limited

due to the lack of co-operation, but there was nothing that caused the nurses to have acute medical concerns.

54 As I have already mentioned, a series of care teams have refused to work with TA because they objected, quite rightly, to being video-ed in the house. TA's tactics are not limited to video. He seeks, as he himself explained, to find out what he can about those who are going to visit him or his mother at home and then to pretend he has knowledge of their lives, which he does not have. He put very considerable fear into the current social worker by saying that he had her CV complete with her mobile phone and details of her address. She became very alarmed and concerned about her safety but eventually decided that there was no way that he could, in fact, have received that information.

55 After the hearing ended yesterday afternoon, and as I was preparing judgment, the local authority applied as an emergency for a further order because of the observation of a YouTube posting by TA had shown that he had whole range of personal information about the social worker, including her date of birth, address, phone number, marital details, and education. That was deeply intrusive and offensive and contrary to orders that have been made as the posting plainly identified his mother and the proceedings. I accordingly made an order last night requiring the removal of those postings and that was complied with, albeit late.

56 During the course of the hearing, I have heard evidence from Dr Singh who has dealt with the issue of capacity and described how the condition of GA was a progressive and non-reversible condition. She has no capacity to take any decisions on her own future. She is unable to understand information; to make decisions; to retain information; or weigh it up. She cannot communicate any decision. She suffers from severe and deteriorating dementia and it seems obvious that she will only get worse rather than any better.

57 Mr Read is an independent social worker. During the course of his involvement in the case, his views have changed and hardened as time has gone on. In particular, having had the opportunity of meeting TA and discussing matters with him, he came to the clear view that any form of collaborative approach was doomed to failure. He could not see how a care package could work if TA was there. TA made it clear to him that he would not co-operate with carers and all the history supports that. He would not agree to stop recording people, so that had the inevitable result that carers would not be willing to work with him. Mr Read was of the view that TA had repeatedly flouted court orders.

58 Mr Read said that the most important thing for GA was that she was kept at home, if that was possible. That is something that everyone in the case has agreed about. It is, of course, her home and she is the tenant of it from the housing association. TA is a licensee and has no legal status which enables him to remain in the home if required to leave.

59 As so often in these cases, one ends up looking at what is the least bad alternative. Mr Read accepted that it would be challenging for GA if TA leaves. The balance has to be struck between the detriment of losing the familiar with the benefits that flow from that continuity, against the benefits that would flow from his departure, namely the ability to provide care in its widest sense for GA; for her to undergo appropriate medical tests and treatment; to enable her to regain relationships with the rest of her family; and to recover respect for her dignity.

60 Mr Read concluded that the risk of harm and the deficits which she suffers when TA is there means that TA has to be removed in the interests of GA. He was concerned on all sorts of levels, which I will deal with in more detail when I deal with the concerns of the local

authority. His view of XA was more equivocal. TA manipulates her and it was his view that he does not allow her a free voice. He reminds the court that TA removed GA from XA's home against a court order. TA has, at times, described XA as a schizophrenic and incapable of caring for their mother. Videos shown of the visits - to which I have already referred - plainly show that he takes the lead and discourages her from communicating with the local authority.

61 TA had before the hearing put written questions to Dr Singh which she had answered in writing. He, in one of his applications for an adjournment, put that he had not had the same opportunity to get answers from Mr Read but, fortunately, he had provided a list extending over four pages of questions that he wanted to put to Mr Read. Counsel for the local authority rightly took Mr Read through all of those matters at the start of his evidence. They did not make him change his mind in any way. His conclusion was that it was simply impossible to work with TA.

62 The social worker Ms Z gave evidence. I asked her if she could help me at all with information about HA. HA has apparently lived in the home for many years and has been described, whether accurately or not I do not know, as being his mother's favourite. He is the youngest of the six children. She said that he is believed to have paranoid schizophrenia but had not been seen by his care team for over six months. The care team had told Ms Z that they could not access HA because of TA. They had been seeing him but were barred from access when TA demanded that they declare that HA had capacity, which they were unwilling to do.

63 TA had made it clear that he would not allow Ms Z access to GA. She says that she finds TA very difficult to deal with and that he screams and shouts at her. Certainly, the clips that I have seen show him speaking loudly and fast. She says that he holds grudges against the local authority and holds them responsible for the death of his father and his brother - I do not know how - and guilty of fraud against him. She was worried about her own safety.

## TA'S CASE

64 He has not come here to say anything to the court and he has not filed the statement which Cobb J ordered him to file. His stance can perhaps best be seen by his emails to the local authority which start so often "Dear COMPP", which is an acronym of "coalition of my mother's persecutors". He believes that the local authority has set out to cause him and his mother misery and that it was a local authority's false allegations that led him to be prosecuted and wrongly convicted. He repeatedly claims that the local authority owes him vast sums of money for the value of the care he provides. He seems to see the local authority as interfering busybodies who should simply leave him and his mother alone.

65 TA would no doubt point to the fact that when the two members of the virtual ward attended two days ago, they found no acute medical concerns with GA and I am sure that he would say that, "I am her flesh and blood and I am the only member of the family capable of looking after her [GA]". He accepts that culturally, it is undesirable that he has to deal with her personal hygiene but he says he is the only person who has stepped up to the mark and that now he will have the assistance, for a period of time at any rate, of XA. One of his later applications to adjourn before me was on the basis that he should be allowed to demonstrate, with XA, how they could manage together.

66 This morning, as I was about to start judgment, he sent through another clip. This was a 20 minute clip that he had taken in his mother's room with her lying on the bed. It is a highly irregular method of giving evidence and, of course, he cannot be challenged about it and I

have no doubt that there were very many questions that both the local authority and the Official Solicitor would like to have asked him. However, that opportunity was removed. I decided nevertheless to look at it.

67 TA makes a number of points, some of which I accept and some of which I do not. He said everything has been rushed and railroaded through. That, with respect, is nonsense. He says that the orders sought by the local authority are highly draconian, and that is true. He says that they are clear violation of his and his mother's rights and they bar him from seeing his mother. In the short term, I accept that they would so bar him. He says that all he has been trying to do is to help the local authority improve its procedures and that he has been victimised by the local authority. That is an untenable proposition. He says that he holds to his claim for £1 million.

68 He addressed me at some length in the clip about the property. He says that it is really only a matter of historical accident that the tenancy is in his mother's name because she was on the housing association list, and it was a decision he took that the tenancy should be in her name. The housing association has provided evidence which states clearly that GA is their tenant, not TA, and that so far as the association is concerned, TA has no legal status in the property.

69 He denies that he has broken any court order other than by bringing his mother back from Greater Manchester. He said that: he was acting in her best interests; that XA was struggling; and that there was a risk to life because of the Covid epidemic. He says that if he is forced to go from the property, XA will go as well. He implied that HA might as well and thus, his mother would be left on her own and homeless. That, of course, is not the local authority's plan at all. He says that his other siblings will not visit his mother and that is nothing to do with him; they are simply unconcerned about her. That is not what they have said to the local authority.

70 TA seeks that the case should be dismissed. He said it is neither reasonable nor proportionate to ban him from living with his mother or seeing her and evicting him from his home of 20 years. He says he is being persecuted and that his mother is receiving high-quality care from him. He says he has never stopped the local authority from seeing his mother. He says that there is nothing wrong with him recording things in his own house and that his mother is entitled to family life with him and with his sister.

71 I agree with the local authority that what is being sought is draconian and I have considered it very carefully. I should return to the concerns of the local authority and the Official Solicitor. I deal with them under these headings. First, they say that GA is at risk of immediate harm. TA goes out, as he agrees, leaving GA, and it is presumed HA, shut in the house. This happens most days for about an hour and they are there on their own. If there was a fire in the house, or GA suffered a stroke, the result could be fatal. TA says that he can tell what is going on in the home by looking at his mobile phone and by picking up the remote surveillance but that, of course, is no substitute for presence and is inherently dangerous.

72 Secondly, the local authority argue that GA is deprived of many of her basic rights by TA. She is isolated; she does not go out; and she remains in her own room. Neighbours report to the local authority that they have not seen GA since 2019 and that previously, she was a sociable woman. It is not known whether she is, in fact, able to go out and enjoy being outside and seeing other people. That simply does not happen and cannot be investigated at the present time.

73 Thirdly, she is deprived of medical attention. As I have already mentioned, there have been occasions when nursing teams have been prevented from entering the house and there is no record of any GP attendance either at the home or at a surgery, so far as the local authority has been able to find, since 2019. At aged 87 and having had a heart attack and been the subject of a whole series of heart medications, it is plain that she should be receiving medical attention.

74 Fourthly, there is no evidence that GA is receiving any form of medication. TA refused to provide any information. I do not know why. Maybe he feels information is power. However, the result is that, so far as the local authority and the court are concerned, there is no evidence that GA is receiving statins, blood thinners, and her heart medication and there is no evidence that there have been any of the necessary tests undertaken to ascertain if the medication previously prescribed is still appropriate.

75 Fifthly, she is cut off from at least three of her children and all of her grandchildren. Whatever TA may say about their failings, RA, MA, and DA all feel prevented from seeing their mother. MA and DA are the only ones with children. So GA does not see her grandchildren at all. GA wants to see them but they will not come and see her with TA running her home.

76 Sixthly, all her intimate care is carried out by TA, when she would much prefer a female to do that. It can only be degrading for her to be washed, bathed and have her pads changed and cleaned after using the toilet by her adult son. For a woman of her faith, it must be particularly humiliating.

77 Seventhly, she is under video surveillance 24-hours a day. I accept, of course, that in some medical settings that happens, but it is degrading to anyone's sense of privacy and cannot be justified for a lady who seems to spend nearly all of her hours in bed.

78 Finally, she is deprived of any form of professional assistance. Those who offer essential services simply will not go into the property because of TA's dominating and controlling presence and his insistence on filming what goes on.

79 The court has to make an order that is in the best interests of GA under s.4 of the Mental Capacity Act. I have to take into account her wishes, so far as I can ascertain them; her beliefs; and the factors and values that would matter to her. I must take into account the views of those who care for her, in this case particularly TA, and the views of the other children who are interested in her welfare. I must also take into account the views of the deputy appointed for her by the court.

80 It is common ground, as I have already mentioned, that above all GA would want to stay in the home in which she has lived for some time. I am sure she would want to receive appropriate medical treatment and medication. She would want to be able to see her doctor. She would want, for example, to receive treatment for the pain she demonstrated she was suffering on 26 and 27 January. She would want to see her children, all of them, and her grandchildren. That is what she said. She would want to be cared for by women. She would want care and stimulation. All these are very much in her interests. I am sure also that she would want to be cared for by those who know her and from whom she is used to receiving care.

81 I have considered TA's rights. He lives in the property and has no other home of which I am aware. I do not know where he would live if required to leave, although it is his fault that

I am without that information. Equally, to deprive him of the company of his mother is a significant interference in his family life.

82 If I could find any way of the care being shared so that the deficits of the current care that she is receiving from TA at home could be made good, I would want to grasp it. However, I am satisfied from the history, from the evidence, and from the argument, that that is simply not possible. The video clips make it very clear why it is not possible. There is no suggestion from TA, even in the video clip that he sent today, that anything will change. He does not see a single deficit in the care that he provides and I come to the clear view that a different regime must be put into place in GA's best interests.

83 I hope very much that as time goes on, TA can be brought back into the fold and able to see his mother and spend time with her. I am sure that would be to their mutual benefit. However, a continuation of the current situation, where his mother is locked away by him from the world and the rest of her family without others being able to reach her, except occasionally with the most stringent court orders, is not a situation that is in her best interests. I accept that this is a draconian order. It should have been capable of being avoided but it is TA, and TA alone, who has brought this about. I therefore accept the local authority plan must be one that would be implemented.

84 In making this decision I have borne in mind the interference with TA's rights. I can find no other way of respecting and promoting GA's rights and interests. The interference in TA's rights is both proportionate and necessary.

85 I accept also that I have to consider the deprivation of liberty provisions. I have read and read into this judgment [45] - [46] and [49] - [50] of *P (by his litigation friend the Official Solicitor) v Cheshire West and Chester Council & Anor* [2014] UKSC 19:

> "45. In my view, it is axiomatic that people with disabilities, both mental and physical, have the same human rights as the rest of the human race. It may be that those rights have sometimes to be limited or restricted because of their disabilities, but the starting point should be the same as that for everyone else. This flows inexorably from the universal character of human rights, founded on the inherent dignity of all human beings, and is confirmed in the United Nations Convention on the Rights of Persons with Disabilities. Far from disability entitling the state to deny such people human rights: rather it places upon the state (and upon others) the duty to make reasonable accommodation to cater for the special needs of those with disabilities.
>
> 46. Those rights include the right to physical liberty, which is guaranteed by article 5 of the European Convention. This is not a right to do or to go where one pleases. It is a more focussed right, not to be deprived of that physical liberty. But, as it seems to me, what it means to be deprived of liberty must be the same for everyone, whether or not they have physical or mental disabilities. If it would be a deprivation of my liberty to be obliged to live in a particular place, subject to constant monitoring and control, only allowed out with close supervision, and unable to move away without permission even if such an opportunity became available, then it must also be a deprivation of the liberty of a disabled person. The fact that my living arrangements are comfortable, and indeed make my life as enjoyable

as it could possibly be, should make no difference. A gilded cage is still a cage.

...

49. The answer, as it seems to me, lies in those features which have consistently been regarded as 'key' in the jurisprudence which started with *HL v United Kingdom* 40 EHRR 761: that the person concerned 'was under continuous supervision and control and was not free to leave' ([91]). I would not go so far as Mr Gordon, who argues that the supervision and control is relevant only insofar as it demonstrates that the person is not free to leave. A person might be under constant supervision and control but still be free to leave should he express the desire so to do. Conversely, it is possible to imagine situations in which a person is not free to leave but is not under such continuous supervision and control as to lead to the conclusion that he was deprived of his liberty. Indeed, that could be the explanation for the doubts expressed in *Haidn v Germany*.

50. The National Autistic Society and Mind, in their helpful intervention, list the factors which each of them has developed as indicators of when there is a deprivation of liberty. Each list is clearly directed towards the test indicated above. But the charities do not suggest that this court should lay down a prescriptive list of criteria. Rather, we should indicate the test and those factors which are not relevant. Thus, they suggest, the person's compliance or lack of objection is *not* relevant; the relative normality of the placement (whatever the comparison made) is not relevant; and the reason or purpose behind a particular placement is also not relevant. For the reasons given above, I agree with that approach."

86 The controls that are set out in the draft order are necessary to ensure that GA receives optimum care. They must be reviewed not less often than monthly.

87 The substantive order provides for the immediate vacation of TA and XA from the home. The local authority has undertaken to provide TA with fully funded accommodation in a bed and breakfast for 14 days. As I have not heard from TA at all as to what his proposals might be and whether or not he can go and stay with other members of the family, I can do nothing other than endorse the proposal for 14 days. XA will no doubt return to her home in Greater Manchester.

88 There is a cordon put around the property of about 100 yards by reference to six named streets in which TA is forbidden from entering. The local authority does not want him watching the house or monitoring who goes in and out. He is barred from removing the Motability car from the property which is there for his mother's benefit. There is a further prohibition about him putting articles or other information in the public arena, including on a social platform, and that is plainly needed in light of the history of this case.

89 TA deluges the local authority with correspondence and I will permit him to continue to write on a no more than once per day basis to the local authority and limiting the amount of material that can be included. Plainly, I do not want my order to be sidestepped by an email within the permitted size but attaching a large file or other YouTube video or Dropbox

folder and that therefore is set out in the order. He may communicate with the Official Solicitor not more often than once per week.

90 Those are the headlines of a very substantial order which will be served upon TA.

91 The local authority seeks a civil restraint order against TA. There have been four occasions before this hearing began when applications have been dismissed as totally without merit, all of them within the last year. In addition, I have dismissed three applications as being totally without merit in the course of this hearing. There are another four recent occasions when applications have been dismissed as showing no reasonable grounds or no good reason. The threshold for the making of a civil restraint order is plainly crossed. I therefore will make a civil restraint order as the only way to restrict the level of applications. The local authority no longer pursues an extended civil restraint order and there will be a civil restraint order for a period of two years.

92 I will need to hear from the local authority about what its proposals are in respect of the future of the committal proceedings. I anticipate that this case will come back to me in the middle of May, when I have made some time available, to consider the appropriateness of the provisions for the deprivation of liberty; the appropriateness of the contact orders; and the appropriateness of the injunctive orders.

93 That concludes my judgment.

**CERTIFICATE**

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***5 New Street Square, London, EC4A 3BF***
***Tel: 020 7831 5627 Fax: 020 7831 7737***
***civil@opus2.digital***

**This transcript has been approved by the Judge.**