

PRESS SUMMARY

Re H (Parental Responsibility: Child Vaccination) [2020] EWCA Civ 664

On appeal from: [\[2020\] EWHC 220 \(Fam\)](#)

JUDGES: Lord Justice McCombe, Lady Justice King, Lord Justice Peter Jackson

SUBJECT MATTER

In this case the Court of Appeal considered the powers of a local authority to arrange for the routine vaccination of children in their care where parents have refused to consent.

BACKGROUND

This was an appeal from a decision made by Mr Justice Hayden on 7 February 2020 by which he declared that the London Borough of Tower Hamlets had the power to arrange routine vaccinations for a child in its care despite the opposition of the child’s parents, and that it did not need a court order for that purpose.

The child is T, a healthy boy aged 9 months at the time of the judge’s decision. The parents have had a number of older children, all of whom have been removed from their care after findings were made that they had suffered from the parents’ chaotic lifestyle, from exposure to violence, and from neglect. In September 2019, after a period of time in a residential assessment unit with both parents and latterly with the mother alone, T was placed in foster care, where he remains. In January 2020, Hayden J made final orders placing T in the care of the local authority and authorising it to place him for adoption: see [\[2020\] EWFC 4](#).

The parents, and particularly the father, were found by the judge to be “driven by the fundamental belief that neither the court nor the State... has any jurisdiction to make decisions in relation to his children”. They declined to register T’s birth and in June 2019 the judge found that the local authority had the power to take that step: see [\[2019\] EWHC 1572 \(Fam\)](#).

The parents also refused to agree to T receiving routine childhood immunisations. The local authority argued that the Children Act 1989 gave it the power to arrange for the immunisations to be carried out, but if that was not so it sought an order from the court to authorise them as being in T’s best interests.

The judge accepted the local authority’s submissions. He declared that it had the power under section 33(3) Children Act 1989 to arrange for the immunisations to take place. In case that conclusion was wrong, he specifically declared that the vaccinations were in T’s interests.

In making his decision about the powers of the local authority, the judge differed from the earlier High Court decision in *Re SL (Permission to Vaccinate)* [2017] EWHC 125, where it had been held that

a court order was necessary where there was disagreement between a local authority and parents about the vaccination of a child in care. He therefore granted permission to appeal.

THE APPEAL

The parents appealed:

- (1) from the judge's conclusion about the powers of the local authority, and
- (2) from his decision about T's best interests.

The appeal was heard on 2 April 2020. At the outset of the hearing, the parents accepted that the judge's conclusion that it was in T's best interests to be vaccinated could not be successfully challenged. As a result, T will now receive immunisations appropriate to his age.

The issue of principle for the Court of Appeal was therefore whether the local authority had the power to override the parents' opposition to routine immunisations or whether disputes of this kind must be decided by the High Court.

THE JUDGMENT

The Court unanimously dismisses the parents' appeal. In the judgment of Lady Justice King, with which the other members of the Court agree, the following matters are addressed:

- The judge's decision [4-11]
- Parental responsibility: parents and local authorities [16-30]
- The issue in this case [31-33]
- Vaccinations [34-42]
- The paper published in 1998 by Dr Andrew Wakefield [43-47]
- Subsequent research [48-56]
- Care proceedings in the context of serious medical treatment [57-68]
- Vaccination disputes between parents [69-74]
- Vaccination cases involving local authorities [75-80]
- Is vaccination medical treatment? [81-84]
- Is vaccination a 'grave' issue requiring court approval? [85]
- Can routine vaccinations be arranged by a local authority acting alone? [86-97]
- The position of parents [99-103]
- Conclusion [104-105]

CONCLUSION

The court's conclusion at [104] on the question of principle is that:

1. Although vaccinations are not compulsory, the scientific evidence now clearly establishes that it is in the best medical interests of children to be vaccinated in accordance with Public Health England's guidance unless there is a specific contra-indication in an individual case.
2. Under s.33(3)(b) CA 1989 a local authority with a care order can arrange and consent to a child in its care being vaccinated where it is satisfied that it is in the best interests of that individual child, notwithstanding the objections of parents.
3. The administration of standard or routine vaccinations cannot be regarded as being a 'serious' or 'grave' matter. Except where there are significant features which suggest that, unusually, it may not be in the best interests of a child to be vaccinated, it is neither necessary nor appropriate for a local authority to refer the matter to the High Court in every case where a parent opposes the proposed vaccination of their child.
4. Parental views regarding immunisation must always be taken into account but the matter is not to be determined by the strength of the parental view unless the view has a real bearing on the child's welfare.

Applying these principles, the Court of Appeal upheld the judge's decision that the local authority had lawful authority to consent to T being vaccinated, and the vaccinations will now take place.

NOTE:

This summary is provided to assist in understanding the Court of Appeal's decision. It does not form part of the reasons for the decision. The full judgment of the Court of Appeal is the only authoritative document. The full judgment can be found at [2020] EWCA Civ 664 and the judgment and a copy of this media summary will be made available at www.judiciary.uk