

Key legal developments updated – Healthcare, July 2021

Priority

 High

 Medium

 Low

Area of interest	Title	Significance
End of life / continuing care	<p>Sandwell and West Birmingham Hospitals NHS Trust v TW & Anor [2021] EWCOP 13</p> <p>And</p> <p>NZ, Re (Mental Capacity Act 2005) [2021] EWCOP16</p>	<p>TW:</p> <p>The question was whether a person should be kept alive purely so that his family could have the opportunity to visit and be with him as he died. TW was a 50-year old man who suffered a catastrophic brain injury after a stroke, recovery from which was impossible. Medical professionals were sustaining his body but were unable to do more than that. TW's family lived in Canada and in the Covid-19 Pandemic it would take weeks to organise a "farewell visit", during which time TW was being kept alive to the detriment of his dignity. It was therefore felt that sustaining TW's life this way was no longer in his interests and he should be allowed to die sooner rather than later. The family of TW disagreed between themselves on this approach, with TW's wife and brother feeling keeping him alive was in TW's best interests, but TW's two daughters "acknowledged the force of the medical reasoning" and felt withdrawing care was the correct decision.</p> <p>Hayden J found that the continuation of respiratory support and the potential for invasive treatment was no longer in TW's best interests and gave his support to the palliative pathway put forward by the clinicians.</p> <p>NZ:</p> <p>NZ was a Covid-19 patient who was sadly rapidly deteriorating whilst on extracorporeal membrane oxygenation (ECMO) which was described by the Trust as "last resort treatment". Despite the care provided NZ was rapidly deteriorating, with key organs failing and one lung completely necrotic. With the clinical picture increasingly bleak clinicians wished to withdraw treatment and allow NZ a dignified death. There were family concerns based on their, and NZ's, religious belief that one cannot "condone any act that would be seen to bring life to an end". This brought them in to conflict with clinicians who felt it was unethical to sustain NZ's life.</p>