

Case No: 11620762

THE COURT OF PROTECTION
SITTING AT THE PRINCIPAL REGISTRY
OF THE FAMILY DIVISION

Family Division
First Avenue House
42-49 High Holborn,
London.

Date: Friday, 29th July 2011

Before:

HIS HONOUR JUDGE HOROWITZ QC

Between:

**LONDON BOROUGH OF HAMMERSMITH
AND FULHAM**

Applicant

**- and -
(1)MW
(2) JC**

Respondents

MISS KIRBY (instructed by **the Local Authority**) appeared for the **Applicant**.
MR. CHISHOLM (instructed by **Irwin Mitchell**) appeared for **The First Respondent**.
The Second Respondent appeared **IN PERSON**.

APPROVED JUDGMENT

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JUDGE HOROWITZ QC:

1. These are proceedings in the Court of Protection. They concern a protected party, MW, who was born on 6th October 1964; so he will shortly be 47 hereafter referred to as MW. They are brought by the local authority for the area in which he lives, the London Borough of Hammersmith and Fulham. They are brought against a childhood friend of his, JC.
2. In these proceedings the applicant is represented by counsel, Miss Kirby. MW himself has been joined as a party and he is represented by his litigation friend, the Official Solicitor, who has instructed counsel. The first respondent to the proceedings, JC, has throughout represented himself.
3. The orders are sought against JC and they are: personal welfare orders within sections 16 and 17 of the Mental Capacity Act 2005. Personal welfare orders can be expressed in wide terms. Section 17 of the Act gives some definition. They can include: deciding where a protected party is to live; they can in other contexts, not relevant before me, deal with the consent to medical treatment or the continuation of medical treatment. They also include by section 17(1)(b) and (c) deciding what contact, if any, the protected party is to have with any specified person. Following on, I am granted jurisdiction to make an order prohibiting any named person from having contact with the protected party. It is those two particular orders that the local authority seek on behalf of MW.
4. To understand fully the decision I have reached, which is to grant those orders as sought, I need to go into the background and consider the evidence that I have heard over the last two days. MW, who is 47, is the youngest of four children who grew up on an estate in west London. A neighbour, a little younger than him, is the first respondent, JC (perhaps I can call him JC since I am using initials for the protected party) has known him, although he is

slightly younger than the protected party, since he JC was nine years old. MW himself was one of a family of four children. MW went to a local school, he had local friends and for the latter part of his childhood, at least, lived in the family home which was a three-bedroom council house on the estate. His life was not free from difficulty.

5. MW's mother had a history, taking it in very broad terms, of psychiatric admission, she was in and out of treatment care from time to time and that led to some of her children, but not all of them, themselves being fostered from time to time. MW, during those interludes, remained with his father. At a reasonably early stage in his education, MW was identified as a slow learner and that has been confirmed by more up-to-date psychiatric examination in the course of these proceedings. Sometimes he got into fights with teachers at school. He left school at 16 and had various jobs.
6. MW's mother died in 1988. His father remained alive until 2005. I have been told by JC, among others, and I accept, that his father could be very difficult when in drink and was perhaps an alcoholic. When in drink he would beat and otherwise ill-treat MW. JC says, and it may be true as well, that MW's older brother could be unkind and physically violent to him.
7. MW's mother's death in 1988 seems to have precipitated something of a crisis. He began to have delusional thoughts and he spoke of ghosts and suicide. He exhibited other paranoid symptoms. For a month at the beginning of 1989 he was admitted to hospital for mental health treatment, where the diagnosis was arrived at, which is substantially as it is today, of borderline mental impairment and importantly a schizoaffective disorder; that is a form of schizophrenia, which includes delusional symptoms. He was discharged but remained under hospital out-patient treatment. He was prescribed medication, in those days it was Largactil.

From February 1997 onwards he was switched to modern drug of lithium. He seems to have continued fairly well for some eight years.

8. In 1997 a serious event occurred - referred to as the index offence. By the spring of that year MW -- perhaps because his medication was not working, perhaps he was taking it irregularly, it may not matter, the result does -- became quite delusional. He became obsessed with the impending Millennium. It is recorded that he thought the world would come to an end if he did not kill someone. He had attachment thoughts to Princess Diana.
9. On 12th May he was visiting the house of an old school friend. He assaulted the two somewhat elderly residents in that house, a man and a woman. He stabbed the woman with a knife. It must have been forcefully done because the blade snapped off. Her husband came to the rescue and he was stabbed too. The police were called. I have read that they arrived in full riot gear with shields. He was brought before the crown court and examination showed that he was talking of voices and so a hospital order was made on his conviction under section 31 of the Act. The effect was that from 19th May onwards he was receiving in-patient treatment which lasted for three years and eight months.
10. MW was released in 2001, when he returned to his family home. He lived there with his father until 2005 with his father, by now elderly, until he went into the nursing home where he remained for the last three years of his life. The effect of that very serious offence and the diagnosis made on his arrest meant that MW remains under restriction and supervision, in effect on licence, under the old system through the Home Office, a scheme now administered by the Ministry of Justice.

11. Arrangements were made in MW's special circumstances, after his father left in 2005, for him to stay on as a single man in a three-bedroom council property that might otherwise be re-allocated to a family needing more space. It is still MW's home. The fact that he grew up in that property, knows it well and has been granted it by a special dispensation of the housing authority is a recognition of how important it is to him as a base.
12. In 2005 or so MW, subject as he was to restriction, asked to be put in touch or asked to continue to meet his old friend, the first respondent, who was by now living in the Isle of Wight. Their friendship has continued and it appears to have re-established itself, though it never entirely died away, in and around 2005 and 2006. There may be some significance in the fact that he has stepped into a gap that opened up on the passing of MW's own father. Permission was given for a visit and a second visit in 2006.
13. However, from 2006 onwards those working with MW began to be concerned about some aspects of effects of the strengthening relationship between JC and MW. Two people in particular were concerned: Dr. B, he is the removal officer, the psychiatrist responsible for the overall supervision and management of MW in the community with authority to confirm whether it is appropriate and safe for him to do so. Dr. B stands between JC and institutionalisation. So his expertise and his opinions are of great importance.
14. Another person of importance, whom I found has been of great assistance in the understanding and learning more about the background of the case, is TC the social worker. They were very worried about what appeared to be, and it has been a matter of dispute in this case, some of the effects of an otherwise good friendship between JC and MW. It appeared to Dr. B that there was an irregularity in the lithium levels in 2006, which appeared to suggest that medication was not properly being taken. It appeared to them that there was a

correlation, an overlap, between intensive exposure to JC and taking his medication, his response to professionals working with him and also his response to another important figure in his life, his sister MGW. MGW lives around the corner with a partner and two children, one a teenager and one a little older. She remains important even pivotal. She sees him daily and prepares his dinner for him most evenings.

15. On 14th November 2006 a vulnerable adults meeting was convened. It led two days later, on 16th November 2006, to the Home Office (who as I have said were in charge) to issue a condition that MW must live in his home alone. TC records in her statement that it took a little bit of persuasion to get JC (who was at the house at the time) to leave and return to the Isle of Wight.
16. Early in 2007, MW passed the message along that he wanted JC to come and stay for a week. The request came to the notice of Dr. B who by now had been in charge of his welfare for some five years: he said no. Shortly afterwards a report was received, via MGW, that JC had actually been there for two weeks. Again, TC reports that she had to persuade him to leave the property.
17. That led to another important event. Because of the breach of what had become his license terms imposed in November 2006, the effect of that unauthorised visit was regarded as so serious coinciding, as it appeared, in some deterioration of his behaviour and possible lithium levels, that he was re-admitted to hospital where he stayed until 7th July 2007. When he was released it was a condition that he should continue to reside at accommodation approved by the RMO, that is Dr. B. It was made plain to JC that he was not to enter, stay or remain or reside in the property.

18. In February 2008 another report came from MGW that JC was once more in the house. The day centre recorded some irregularity in his attendance; he was attending four times a week or so. It was when JC was in the house, although the community practice nurse was not made aware of it; even though he was also in regular contact and meant to be in regular supervision of MW to ensure that all was well. Further research appeared to show that JC was present and had been there at Christmas.
19. Dr. B being told of these things advised, in other words directed, a further admission. That ran for several months and only ended with the convening of a full mental health tribunal chaired by Queen's Counsel which delivered their decision on 25th July 2008.
20. It is important to keep in mind that the negative aspects, and there are positive aspects to the relationship between JC and MW which I do not put out of the mind and will not put out of the mind, but the negative aspects had led to such serious concerns in the family, MGW in particular, and the experts closely involved in monitoring MW's welfare that he lost his liberty for over a year (if one combines those two periods of re-admission in 2007 and 2008).
21. The tribunal heard from Dr B, TC and MW himself; and it is noted that MGW also attended and helped the tribunal with oral evidence; there was also input from the Ministry of Justice. They said in terms, at paragraph 3, having noted that since recall in February, MW had been mentally stable on unit with no management problem, that he had enjoyed leave without incident, he had presented well while giving evidence and was compliant. It was noted that the real problem for the patient was his relationship with a childhood friend ie JC. They noted, with the input available to them, that on occasions JC had stayed with the patient, it had been instructed to the aims of the treating team, that he had suggested he did not need to

- take the lithium prescribed, talked down the ability of TC, and Dr. B had formed the view that he was a bad influence because it had been financially exploitative of him.
22. I shall pick up that last point immediately. That refers to 2006 when JC had been staying with MW and they had gone out on expeditions together. They are both keen on football and they both follow the local club, QPR. MW bought a television and spent a lot of money on clothes. I had the impression, but I may be wrong, that a lot of that £4,000 was gone through. I put out of mind entirely any suggestion that JC was engaged in taking MW's money. If Dr. B has formed that view, I think he has it wrong. I am satisfied from what I have heard that what actually happened is the two friends enjoyed spending money. I have not been told that it was spent on gambling or drink. There may well be clothes and a television and other personal things that MW still has, that he got out of it. So where Dr. B says "financially exploitative" I think there he is going out on a limb which is not supported on the evidence. I am very glad to have the opportunity to put that right.
23. The tribunal went a little further. Paragraph 5 records that in the light of all the evidence it was no longer necessary for his own safety or the protection of others to detain him, but he should remain liable for recall. He had agreed to remain a voluntary patient in the local authority's mental health unit and returned to his flat. The tribunal also operated on the basis that an injunction would be applied for by TC to prevent JC from visiting the patient. That was to be actioned as soon as possible. That is essentially where these proceedings start.
24. The decision of the mental health tribunal is in the papers at D/4. It decided that MW should be conditionally discharged, subject to the conditions set out. It was satisfied that MW was suffering from mental illness, which would on the face of it make him liable to be detained. But it was not satisfied, subject to the conditions, that it was actually necessary that he should

receive such in-patient treatment but he should remain liable to recall for further treatment. These conditions were: (a) residence at the address (that is the home in which he grew up, in which he had continued to live after his father moved into the nursing home), or such other accommodation as the RMO, Dr. B, shall deem suitable; (b) compliance with prescribed medication and all reasonable directions for treatment given by the RMO and/or social supervisor; (c) submitting to random and/or regular testing for lithium levels; (d) compliance with a discharge plan dated 13th June prepared by the social supervisor.

25. Permission was obtained in September 2008 from the district judge and MW was joined and JC was joined. On 4th December 2008 District Judge Adams made injunction on the material he had before him, being satisfied that it was necessary and proportionate to do so and in the best interests of the patient, MW. He ordered that JC be forbidden from staying overnight or having direct contact between the hours of midnight and 8 a.m. with MW. That was less than the local authority had asked for.
26. On 23rd June 2009 in a further application and on the basis of further evidence and material put before the district judge, that was extended to restrain entry at any time. That injunction the local authority now seek on behalf of MW to be confirmed and made permanent in those absolute terms.
27. By June 2009, when that extending injunction was made, the court had the advantage of material from an instructed psychiatrist, Dr. H, who also appeared before me. He, in turn, had received a long statement from JC, which is JC's direct written input into these proceedings. He had also received advice from Dr. B.

28. Originally this case was to be heard in Bristol, which would be a little bit nearer to where JC lives on the Isle of Wight, but for various reasons it became transferred and the obtaining of reports has produced some delay. In the event, I heard evidence yesterday and the day before and this is my judgment in the application.
29. At the outset of the hearing, the local authority invited me to confirm a procedural direction supported by the Official Solicitor that MW himself should not attend. I was told on the advice of Dr. H, confirmed by Dr. B that it would be stressful. I was reminded that Dr. H, who had considered his litigation capacity, had come to the view that MW does not have litigation capacity -- a decision he reached on balance and on full consideration of all the medical reports then available to him and his own observation – and that it would be pressure to him and not conducive to the maintenance of his good mental health.
30. I acceded to that application so MW has not appeared before me in the way that he did before the mental health tribunal, but I have heard about him through reports, from JC himself and of course very importantly from TC. Although MGW, the sister, has not made any statement, there was a suggestion from JC that she should attend too. Since she has not put in a statement, effectively the way to have done that would have been a witness summons or its equivalent. I held that was not necessary and nothing in the material that I have read or heard has persuaded me that that was the wrong decision.
31. It is right also to record that, as happens in these cases, the local authority, together with the Official Solicitor, have regarded some material as sensitive presenting the court with the difficult, but perfectly appropriate, decision to withhold material from all the parties and specifically from JC; in the technical term, material has been redacted. In the event, I had not thought it necessary to stray beyond the material we have all had the opportunity to see,

especially JC. So I have not been in the uncomfortable position of having to explain to him why I have come to a decision based on things I have read and he has not.

32. I heard from Dr. H first. He confirmed the diagnosis of MW, of a schizoaffective psychosis, borderline learning disability, the tested IQ was 71; but one knows that that number does not always tell you how well people perform because people can perform in daily life and interaction with others above or below a mathematical result. The importance of the word "schizoaffective" is that it means mood disorder.
33. Dr. H formed the professional view of MW's capacity, to which I have already referred, and that analysis I accept. Dr. H was troubled from what he had read and from his own encounter with JC, that there were negative aspects to the relationship between them and was satisfied from what he had read and understood that there seemed to be a correlation with absence of taking medication. He was troubled by the possibility, which seemed to him to have occurred, that there were aspects of the relationship which caused distress and that diminished MW's important relationship and interaction with his sister MGW.
34. Dr. H described MGW as the person on whom he is dependent for the support that has kept him well. I find that as a fact. It is supported by all the evidence. MGW is the trigger, the early warning system, as she has been described, in her daily meetings with her brother, just a few minutes away, the first sign that things might be going wrong. Any impact on that continuing relationship between brother and sister of mutual affection and, in her case, care and concern, I am satisfied, has the potential to do immense harm and would de stabilise MW. It is also very important to bear in mind that if MW was destabilised and in the community, there is the risk, a risk which cannot sensibly be ignored, that things could go downhill and may produce offences as serious as those that occurred in 1997.

35. JC has described MGW as dominant; she may well be, for all I know. It probably comes with the territory of being the big sister who is in charge. If there is a bit of a downside in her daily interaction, it is wholly outweighed, I am satisfied, by the good that her care, concern and bossiness, if you will, provides for the welfare of MW.
36. Dr. H reminds me of the occasions when MW had been floridly unwell with florid delusions. He last saw MW earlier this month when he found him much calmer. He discussed an incident where JC had come to the house and stayed. Dr. H remained of the view that he was vulnerable to the influence of JC and he remained essentially as vulnerable he said, "as I have known him in the past". He was troubled by a recent incident over three days around 28th April and following, this year when JC had been in the house unofficially, contrary to the injunction of which I am satisfied he was aware.
37. What further troubled Dr. H was that JC might deal with authorities by subterfuge, by not being upfront about any breaches in an attempt, so to speak, to keep on an even keel with MW, not getting into trouble, not get MGW over-excited and so to cover up the protective scheme devised by others for his welfare.
38. JC cross-examined Dr. H. He did so courteously and with deep knowledge of much of the background and quite plainly with deep affection for his old friend, MW. Some of the detail appeared very important to him, but I am not sure it made a huge difference to the analysis of the situation before me. It might be true that MW's troubles became critical when he was knocked down by a motorbike in 1988, shortly before his mother died. It does not seem to me greatly to matter whether his mental troubles were precipitated by those two critical events or whether they were just the trigger that brought them out. It is the effect and the

lasting effect of his condition, which became seriously florid from 1989, that matters; because, as I accept Dr. H has told me, the underlying condition is unaffected and remains.

39. Dr. H was asked in detail about 2006. That again, did not help me a great deal because I have the direct recollection of TC, who I will deal with shortly, and the potential recollection, although his memory is less clear than hers on this, of JC himself. Dr. H was not aware and did not think there were any side-effects of the lithium that were manifest and required another look at the prescription. Lithium levels are, of course, primarily the province of treating doctors, who are the team led by Dr. B— who sees MW every three months, as he has done for nine years.
40. Dr. B confirmed Dr. H's independent confirmation of his own diagnosis, that there were here present learning disabilities, a schizoaffective disorder with psychotic delusions and mood disturbance. The treatment with lithium and anti-psychotic drugs are important, he said, and he unhesitatingly accepted that he would be concerned if either set of drugs were interrupted. The effect would be increased irritability, delusional ideas, hallucinations coupled with a risk of repetition of the index offence. Even if might not be as serious as before it would still be a matter of gravity and concern.
41. The problem with, as he explained to me and I accept, lithium is that there is no straight line, it is not easy to tell when behaviour could deteriorate; it might within a fortnight, it might take longer, it might take less; but deteriorate, he was satisfied it could. I agree. I accept his evidence. He was asked whether there were side-effects of lithium. JC mentioned his concern with MW's swollen legs. There is the possibility, Dr. B told me, that lithium could affect thyroid function. There is some indication in the literature that swollen legs are a side-effect, although it is not a frequent one. He was not aware of that as an actual problem

in this case. There had been reference to an endocrinologist, who had looked at the urine samples and advised the possible presence of slight diabetes; but he had not received any direct report of adverse effect from the lithium from MW or those in the treatment team.

42. Dr. B gave very careful evidence, so careful at times it was rather difficult to know what his actual opinion was. But I am satisfied that essentially he was being polite, exercising professional integrity and judgment and he was confirming the views he had already expressed, which I have recorded, and which he did not retract.
43. Dr. B described MW as someone who could stand up for himself, although he may be susceptible to influence. It was his professional judgment that MW might not be able to be upfront, as he put it, about JC staying with him, because he might be fearful of professionals and fearful, too, of JC. MW would also be likely to be aware that if it came out that he had breached his condition, he could be recalled; as he had been twice, of course, in 2007 and 2008. I accept that evidence and that assessment of how MW operates within the world in which he has to move and the forces around him.
44. JC put it to Dr. B that MW was honourable and not dishonourable. At the time I did not quite understand what he meant by the phrase. But it now seems to me, on reflection, that this was really JC's circling around the problem of MW himself not knowing whom to tell everything to and feeling that it might be more honourable to be loyal in the first instance to JC and his friends rather, in fact, to his own interests or even the crossness of his sister or things that treating professionals might discover. So JC's assessment of MW and Dr. B fears of how he might be caught between a friend's influence and the supervising authority's influence actually are the same thing.

45. Dr. B confirmed to Mr. Chisholm that interruption of medication of any kind would interrupt his mental health. Any interruption could precipitate a decline thus it was important to pick up the deterioration at an early stage. It was he, in fact, who described MGW to Mr. Chisholm as the early warning system we rely on. Dr. B confirmed Dr. H's important opinion, that the mere passage of time did not make any of those risks less likely. He confirmed from his nine year engagement, independently confirmed by Dr. H, that MW remained vulnerable to relapse and that means a risk and that means a risk that cannot sensibly be ignored of re-offending and risk to the public.
46. Dr. B considered with care from his perspective the making of an absolute ban. He was properly hesitant and cautious. But he felt driven to the conclusion that if there was no absolute ban on visits to the house, if we went back to that partial regime of District Judge Addams in December 2008, when there was a curfew, there might be visits that could not properly be monitored, that would not properly be reported; so, the logical and the better solution was to have a clean, straight, absolute provision. I think that was well thought out. It should not mean, he said, and here I also agree with him, that we cut out the friendship.
47. TC was, if I may respectfully say so, a clear and excellent witness. If I have counted right, I have six statements from her. Her involvement goes back to January 2006. She has had much to do with MGW and she describes her as very important and it is from her I know that MW goes there for meals and so on. Her statements include a full picture of what went wrong in 2006. It is to be found in the bundle at C/17 to C/19, that is the unredacted version. She describes in particular at paragraph 20, C/17, professionals becoming worried in May 2006 and it was in fact MW's brother MCW who first got in touch. She said that MW sustained minor, but unexplainable, injuries, which MCW (who does not seem on the best of

- terms with JC, I fear) attributed to JC. Whether that is true or not, I cannot tell and I do not need to decide.
48. What is important is what is actually recorded as the injuries MW sustained. His false front teeth had been broken, there were bruises on his fingers, there was a cut on his upper ear, his hair had been set on fire. The hair set on fire was apparently caused, as JC told them, when they were, in his words, mucking around, horse-playing.
49. TC spoke to both of them, that is MW and JC, about the seriousness of this matter and the dangers. To his credit, JC apologised and said it was unacceptable and, to his credit, said it would not happen again; and nothing of this kind has happened again. She records too that things seemed to be all right until a summer visit to the Isle of Wight in 2006. It was on his return that MW seemed to be in a different frame of mind. He was spending less time with his sister. He would be in a hurry at appointments. He looked dishevelled, he was in his new clothes, and the lithium levels were unreliable.
50. It is around that time that the spending spree occurred which got through pretty well all of MW's accumulated savings from the period when he had been in work. He is unlikely to return to work or earning ever again.
51. On this area of the history, JC's own recollection in evidence before me was much vaguer. He was asked to look at those paragraphs and the succeeding paragraphs. He offered only a hazy recollection. He had some knowledge of a telephone call. He could not really remember being told in 2007 that he should not be in the house. Having read the material, having listened to TC, having heard JC -- and realising of course his memory is going back five years, whereas in TC's position she has the advantage of contemporaneous notes which

would have helped her put the statement together -- I find and I accept that her recollection is accurate in the detail, including those events in 2006 and the request in 2007 (to which I have already referred), which again correlated with problems around the lithium levels.

52. TC who knows MW so well, is wholly in favour of maintaining the friendship. The 2 friends share a passion for QPR which has had a good season this year. There is a network of old friends from the old days, some of whom are still around and some of whom are still in west London, who would like to see JC from whom he can derive great benefit.
53. Of course, MW is entitled to have a happy and good life and enjoy friendship and kicking a football, going over childhood teenage memories. It can, TC said, be maintained away from the house. It should not involve, certainly at this stage, going off location to the Isle of Wight and staying there, remote from the monitoring of MGW or any regular input from her and her colleague the CPN; who between them see MW once a week. I agree, it is something of an inhibition not to be able to go to MW's house but there are plenty of ways, it seems to me, in which friendship can be enjoyed, there are places to go without overnight stays or being in the house and having a direct influence on MW's attitude to the other people who are part of the props and support that keep him in the community.
54. At one stage in her evidence TC turned, I noticed quite directly to JC, and said, "We think you tried to take over his life. He becomes anxious and dishevelled at appointments when you are around". That may be putting it a little strong but the underlying point is valid.
55. Then, I heard importantly from JC himself. These are not easy proceedings for him. They involve a friend for whom he cares deeply and that is enormously to his credit. He is on his own, facing experienced barristers, dealing with psychiatrists. It must be both stressful and a

little alarming. He has acquitted himself with courtesy and dignity and impressively so. I have made it plain, if there is any suggestion that he has exploited MW financially, that is a misunderstanding which I have corrected on the record, to his face and to the face of the professionals who continue to be involved.

56. Much of his picture of the background was of great value to me. He filled in the picture of MW that otherwise is just the cold page of psychiatrists' reports and he filled it in with a friend's affection and reminiscences.
57. JC told me that he loved MW like a brother. He said he first got to know him through his contemporary, MW's brother KW, who I have left out of the story; he died in his late teens. It was JC who filled in the background and told me about MW's father's alcoholism and how horrible he was to his wife MRW, to his children and in particular to MW.
58. Some of what JC tells me importantly I have to put in context. He agrees that MGW is important and that MW was a bit lazy and that she is a bit dominant. I have already said, if that is the combination, a slightly lazy or easily persuadable MW and tough dominant MGW it works well. JC is only confirming to me a susceptibility to influence that others have already identified in MW, such as Dr. B and Dr. H. A dominant older sister is just what he needs.
59. JC told me that he thinks MW could be more independent than he is. It was rather difficult to extract from him what he meant by that. Did it mean that he should not see MGW? No, it did not. He should go out more: but there is nothing to stop him going out. He should broaden his mind more: but there is nothing to stop him doing that. I could not resist coming to the conclusion, that by being independent what JC, I am afraid in the last analysis means,

is for MW to be free to see JC in a way that he, JC, thinks is appropriate and the professionals do not. That brings us to the difference between them and himself; a difference reached in good faith by JC, not out of any malice or wish to do harm, but simply a different perception of MW's welfare. I am afraid I accept that professionals have come to a clear view about MW's limited capacity to know his own welfare, which is where my jurisdiction comes in.

60. There is also a troubling aspect too in regards to the medication. I asked JC whether he thought that MW's medication was not quite right. Now, he is not a doctor and I am not a doctor; he is not a pharmacist, I am not a pharmacist. But JC was little reluctant, but he did tell the local authority candidly that he had a suspicion that they had got the medication wrong. I think he needs to be very careful here. I hope JC will consider, on reflection, to plant the idea in MW's mind that the doctors are giving him the wrong pills and that it is all too strong, would present a danger for his friend MW.
61. JC may have in mind times past when MW was on Largactil and I believe I am right that that had larger side-effects than lithium. As a friend he may well have been right to be worried as an outsider, a non-medical and a friend, as to what Largactil was doing to him in the 1990s. I am willing to place confidence in Dr. B and his team to get the medication right and to get modern medication right. I can only see the beginning of a worrying term, if the idea is planted in MW, however innocently, that the doctors are not getting it right for him; because there is no one else that is going to get it right instead.
62. JC confirmed that he knew about the injunction he breached on 28th April. His explanation related to his own strong feelings around the memorial ceremony for his father and the fact that he had not seen MW properly for two years. MW wanted him to stay, asked if he could

stay and then he said, "I stayed there because I thought the court order was wrong. If I do not see him at the house, he will not come out. His sister will not let him out. He has shackles. He is not allowed to live his life". At that point we crossed into entered territory, I am afraid, that persuades me that the local authority, supported by the Official Solicitor, have a right and a duty to bring to the court's attention the court's duty to consider a personal welfare order to protect MW.

63. I come back to where I started: In course of this hearing I have received advice which I accept from those medically qualified to give it, that MW does not have the capacity to bring these proceedings to engage in the litigation. That specifically he lacks, as I have been advised and accept, the capacity to make his own decision as to the boundaries of contact with an important person in his life, and that is JC. That decision falls to be made by the court. On the material I have received, it is appropriate to make an order in those terms.
64. It is not a question of JC, in the broad sense, doing anything wrong; although in the strict sense he has. He has broken injunctions which were in place and which he knew about. He felt that they were wrong. I am afraid, I cannot leave him to come to his own conclusion to override court orders reached on expert evidence. I am not saying he did it maliciously. I am not saying I do not value, on MW's behalf, the support and friendship he represents, the link to the old days, the link to their common childhood, and he is part of the furniture, the wallpaper of MW's life and mind; all those things should continue. I am afraid, on the history that I have set out, perhaps at length, they need to have boundaries put around them.
65. The local authority want a final order to continue with the order made in June 2009, an injunction order restraining (that is stopping) JC from visiting at the house or staying there or residing there. That will be continued. I make it plain basis on which I am invited to set out

my grounds are helpfully set out at paragraph 17 of Ms Kirby's position statement for this hearing of 25th July and equally helpfully commented upon by Mr. Chisholm, on behalf of the Official Solicitor.

66. For the avoidance of doubt, I make these findings: 17(a) – I refer to Ms. Kirby's document -- MW does not have the capacity to make a decision, as I have already referred to and I have already identified the evidential base for that finding, and does not understand the potential likely effect that JC being in his house is likely to have. I am satisfied that is made out. I am satisfied that when JC has entered and stayed, there have been severe and adverse consequences. I mention those two recalls to the hospital, that is 13 months of his life. I am satisfied, and the evidential base for that is Dr. H and Dr. B, 17(c), MW is unable by himself to prevent JC from entering and staying at his home. I go further, that were JC to come to the house, MW would be put in a difficult position: would he be honourable to his friend or would he be obliged to tell MGW, to TC, to tell the community practice nurse, it is wholly harmful to his welfare for him to be put in that sort of dilemma. Then, 17(d), the document as drafted says JC bullies MW. Miss Kirby immediately accepted that that is incorrect, that is a slip of the pen which is retracted. That is not what this case is about and it has not consistent with the evidence. Then, 17(f), that JC has breached the existing interim injunction. He did so in April 2011, which he has admitted. There was also an earlier breach.
67. Having made those findings I make those consequential orders on the basis that I accept, and indeed hope, that MW will continue to want to remain friends with JC; he should do so because they have much to offer each other. I have already said that. It cannot be from a

home base and it cannot be in a way that impacts on MW's ability to remain in the home that means so much to him.

68. There will be an appropriate order I will invite counsel to draft. I am going to put a penal notice on the order. I do so because there has been a breach very recently admitted by JC, who was candid enough to say that he did not think the order was right in the first place. I find that candid but troubling. I hope he will understand that the function of making a penal notice is not to be heavy handed for its own sake but to remind JC of what he has to do to and make it plain to him that he needs to rethink and restructure the way in which he manages his friendship with MW for MW's benefit and for his own personal benefit too.
69. A penal notice means, JC, that if the order is broken it becomes a contempt of court and it can be brought before a judge (it could be me or it could be another judge). They could fine you or send you to prison for contempt.