

R (on the Application of Raines) v Orange Grove Foster Care Agency Ltd (2006)

[2006] EWHC 1887 (Admin)

28/06/2006

Barristers

David Bedingfield

Court

Queen's Bench Division

Facts

The claimant foster carer (R) applied for judicial review of the decision of the defendant care agency (O) to de-register R as a foster carer. O had registered R as a foster carer. Over a particular Christmas period a child (X), who suffered from cerebral palsy and epilepsy and required a body brace, was placed in R's care. On his return to the care agency concerns were expressed about X's condition. The concerns focused on allegations that R had failed to treat a pressure sore on X's body that had been caused by the ill fitting of X's body brace and had failed to administer a medicine that X required. The matter was referred to the fostering panel of O for its recommendations pursuant to the Fostering Services Regulations 2002 reg.29. The panel recommended de-registration and informed R of its decision. R made written representations to the panel and the panel considered the representations as an appeal and a further meeting was held at which R was present and made submissions. At that meeting there was evidence before the panel that only three days' supply of medicine had been provided to R when X was put into her care and that R was not informed of (i) the importance of the medication; (ii) the difficulty in obtaining the medication over the Christmas period; (iii) how to fit the body brace. R admitted that she should have contacted the relevant parties when the medication ran out, but that she had taken what she had thought was the appropriate action. R asserted that X had had a pressure sore under his arm whilst in her care, but that it had essentially healed when he left her care whilst the wound complained of was on X's chest. The panel recommended that de-registration was not in fact appropriate and recommended that R should undergo further training. The panel's recommendations were never disclosed to R. Thereafter, O's director of child care, who was the relevant decision maker under the regulations, wrote to R informing her that she had decided to de-register her.

Held

The decision of the decision maker of the care agency to de-register R was procedurally unfair and Wednesbury unreasonable. The decision of the panel and the minutes of its meeting were persuasive and demanded careful reading before rejection. The letter of the decision maker should have set out (a) what the panel recommended and why; (b) why the decision was being made to reject the panel's recommendation. The letter from the decision maker failed to explain the decision to de-register R or to

give any real weight to what the panel said or its recommendations and was fundamentally flawed. Moreover whilst it was not necessary for the decision maker to go through every facet of what the panel had said and recommended, it was necessary for her to have either included the minutes of the panel or the gist of the panel's minutes plus the full text of the panel's recommendation and why that recommendation was being rejected. *Lloyd v McMahon* (1987) AC 625 and *R v Avon County Council, ex p M* (1999) 2 CCLR 185 considered. O's decision to de-register R was quashed.

Application granted.

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