



Dorset
Council



Perinatal Capacity Workshop



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Aim of the session:

- Give an overview of relevant case law
- Case study
- Discuss

NHS trust & Org v FG [2014]

- 24 year old under Mental Health Act
- Paranoid that health professionals trying to kill her
- Court authorisation to use control, force and restraint to deliver and not tell her about it.
- DoLS
- Keenan produced guidelines:
 - Need to be known by all relevant health and social care professionals
 - Identify cases of potential loss of capacity early

St George's Healthcare Trust v S [1999]

- MS 36 weeks pregnant presented at GP
- Pre-eclampsia – advised need for urgent treatment for self and baby
- Rejected advice
- MHA assessment placed on S.2
- Caesarean took place
- S.2 found to be unlawful
- No assessment or treatment for mental disorder
- Had capacity

Re SB [2013]

- 37 year old bipolar woman
- Pregnant (previous termination) wanted to keep baby
- 17 weeks stopped taking medication
- Health deteriorated – attacked husband
- Wanted termination
- S.2
- Trust requested best interest decision in court
- Believed she lacked capacity
- Had capacity to decide on termination

NHS Trust v P [2019]

- JP learning disabilities pregnant
- Wanted natural birth but team felt only safe way was for caesarean under general anaesthetic
- Made application at 33 weeks for caesarean and JP not to be told
- Evidence given they lacked capacity
- Deception can be compliant as long as best interest has been carried out
- Court agreed to it
- Gave birth naturally

Pacchieri 2013

- Media reported of forced caesarean under MH Act
- Bipolar pregnant, visiting England
- Detained under S.2, then S.3
- Court asked to consider caesarean due to risks
- Supported by consultant obstetrician and psychiatrist
- Two previous elective caesareans
- Lacked capacity
- Obstetric risks – best interest decision made for caesarean authorising use of reasonable restraint
- Last minute application

AB [2019]

- AB 24 had moderate learning disabilities
- Challenging behaviour
- Pregnant
- Lacked capacity to decide whether to continue
- Adoptive mother opposed to termination
- Trust felt best interest terminate – 23 weeks
- Court agreed to termination in best interest
- Appealed and overturned – rare.
- Best interest analysis erroneous. too medically weighted, assumptions made

Great Western NHS Hospital Trust v AA [2014]

- 25 year old bipolar 38 weeks pregnant
- S5(2) psychiatric hospital
- Psychosis and ruptured membranes
- Lack capacity
- Best interest decision required a survey broader than just her medical interests
- Caesarean under general anaesthetic authorised

NHS Trust v C

- C detained under S.2
- Bipolar affective disorder
- Indicated wish for natural delivery
- No indication that possibilities that might arise if she became unwell were discussed prior to her loss of capacity
- Elective caesarean authorised

Re CA [2016]

- 24 year old woman autism and mild learning disability
- Brought to court two weeks before
- Victim of genital mutilation
- Resistant to medical intervention – home birth
- Lack capacity – stemmed from autism
- Detailed balance sheet
- Planned caesarean in best interest.

Case presentation

- Psychiatric History
- Obstetric History



Discussion



Thank you for coming!

You will be emailed your evaluation form,
please complete and then your certificate
will be emailed



A white rectangular card with a list of five evaluation options. The first option, 'Excellent', is checked with a red checkmark. The other options are 'Very good', 'Good', 'Average', and 'Poor', each with an unchecked checkbox.

- Excellent
- Very good
- Good
- Average
- Poor