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Neutral Citation number [2020] EWCOP 74

Case No: 13174673

IN THE BIRMINGHAM COURT OF PROTECTION

33 Bull Street,
Birmingham, B4 6DS

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Before:

HER HONOUR JUDGE CLAYTON

Between:

DA	<u>Applicant</u>
- and -	
EP (1)	<u>Respondents</u>
JP (2)	
RP (3)	
(by her litigation friend, the Official Solicitor)	
WARWICKSHIRE COUNTY COUNCIL (4)	

THE APPLICANT was excused from attending
THE FIRST RESPONDENT appeared in Person
MR ABID MAHMOOD appeared for the **Second Respondent**
MISS NAGEENA KHALIQUE QC appeared for the **Third Respondent**
MR BENJAMIN HARRISON appeared for the **Fourth Respondent**

Approved Judgment

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HER HONOUR JUDGE CLAYTON:

1. The court is concerned in this case with RP. She is an 84-year-old widow who was diagnosed with Alzheimer's Disease in 2014. She lives in a flat which is two floors above the flat occupied by her daughter, EP. EP appears as the first respondent in these proceedings. That flat is also owned by RP. JP is RP's son and he lives in London but remains in regular contact with RP. He is the second respondent in these proceedings. The sibling relationship between JP and EP is strained.
2. RP has been in receipt of a private care arrangement since early 2017. Initially, that had been provided by B Care Agency, and the package of care was ordered to be in RP's best interests in the interim period on 10th September 2018. On 22nd September 2019 this package of care broke down due to an allegation by EP that the carer had bitten RP, and for a period of time EP then provided 24-hour care to her, staying overnight in her flat.
3. The original intention at the time was to find another 24-hour care provider which could be privately commissioned to care for RP, but that search was proving difficult and the local authority had considered RP moving into a care home on a short-term basis whilst that search took place. The local authority, however, invited the court to authorise the care arrangements with EP residing with RP in the interim until another 24-hour provider could be put in place, and that was authorised by the court in October 2019.
4. At the hearing on 30th and 31st October it was intended initially that there should be a final hearing at that stage. That hearing, however, became a directions hearing, although the court heard evidence from EP and made decisions in respect of RP's care. The court ordered that it was in RP's best interests to receive care at her home from paid carers for ten hours a day in split shifts, and that there should be overnight care two or three times over the course of the week, with EP to provide additional care in the meantime. There were some decisions made in respect of JP having contact with his mother on an unsupervised basis.
5. Directions were fixed to enable further investigation of the matter and to provide the court with the information required to make a final decision. There was an application for a panel deputy to be appointed to manage RP's property and affairs on a permanent basis, and the court made that decision.
6. There was a further urgent hearing on 28th November 2019. The application was made by the Official Solicitor as there was concern by the local authority and the Official Solicitor that the package of care ordered to be in RP's best interests in the interim had broken down. Mrs Chapman, the solicitor instructed by the Official Solicitor on behalf of RP, had become aware of difficulties experienced by the care agency ("X Care Agency") in the delivery of their care to RP. It was suggested that EP appeared to be in breach of provisions of the court order dated 31st October 2019. The allegations against EP included that she was making it extremely difficult for the carers from X Care Agency to provide RP with the care and support which she needed.
7. By the morning of 28th November the applicant deputy was able to confirm that X Care Agency were able to provide 24-hour live-in care seven days a week to RP with effect from 2nd December, and that was proposed to be done on a shift basis. This provision

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of care and the contingent contact restrictions were ordered by the court to be in RP's best interests in the interim. It was deemed lawful and in RP's best interests to continue to have unsupervised contact with JP as long as he provided 72 hours' notice to X Care Agency if he wished to make arrangements for contact. There was further timetabling for the hearing which began on Monday of this week.

8. There was one further hearing on 6th February which provided for further timetabling. The applications before the court, which the court needs to consider at this hearing, concern EP's welfare application dated 10th June 2018 to change RP's care provider; another application made by her on 23rd July 2018 to move RP to Scotland; also JP's welfare application dated 12th June 2018 for unsupervised contact with RP and for there to be no change of care provider; the application of the local authority dated 17th August 2018 to authorise RP's deprivation of liberty in her current placement. There is an application by EP, also, to vary the interim contact restrictions ordered by the court on 28th November 2019.
9. The issues which are necessary for me to consider have been set out by Mr Harrison in his skeleton argument at paragraph 21. Those issues, he indicated, remained following an advocates' meeting which had taken place shortly before the hearing. Those are: what is in RP's best interests in terms of her residence in the short term up to nine months; what is in RP's best interests with regard to her residence in the medium term beyond nine months; what is in RP's best interests regarding the care and support she should receive; what is in RP's best interests with regard to her contact with EP and JP; and how should any deprivation of liberty ordered by the court be supervised going forward.
10. The legal framework was again set out, firstly, by Mr Harrison in his skeleton argument which was full and detailed and for which I thank him. The legal principles, as he set it out at paragraphs 23 to 28 of his skeleton argument, are not in dispute and I do not intend to read those out, but they should be taken as being read into this Judgment. I add to them three further points which the court has been reminded of during the course of submissions by Mr Mahmood and Miss Khalique.

(a) The case of *ITW v Z* [2009] EWHC 2525 sets out the following important points when evaluating what is in P's best interests:

"(i) The first is that the statute lays down no hierarchy as between the various factors ... beyond the overarching principle that what is determinative is the judicial evaluation of what is in P's 'best interests'.

(ii) The second is that the weight to be attached to the various factors will, inevitably, differ depending upon the individual circumstances of the particular case. A feature or factor which in one case may carry great, possibly even preponderant, weight may in another, superficially similar, case carry much less, or even very little, weight.

(iii) The third, following on from the others, is that there may, in the particular case, be one or more features or factors which, as

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Thorpe LJ has frequently put it, are of 'magnetic importance' in influencing or even determining the outcome".

(b) Whether or not a person has capacity to make decisions for herself, they are entitled to the protection of the European Convention on Human Rights; in this case, the Article 5 right to liberty and Article 8 right to respect for private and family life. Further, it is the aim of the UN Convention on the Rights of Persons with Disabilities to secure the full enjoyment of human rights by disabled people to ensure that they have full equality under the law.

(c) There is, however, no presumption in favour of a right to family life in the best interests analysis (*K v LBX* [2012] EWCA Civ 79).

The Evidence

11. This was contained within the trial bundles headed by the amended index, which was provided at the start of the hearing. I have also had an additional letter from the deputy, from RP and EP's GP, and an additional statement from EP dated 17th February. I heard oral evidence from Geraldine Hunting (social worker); from David Skidmore (lead practitioner); from JP; from MP; from EP; and from Keith McKinstrie, who was appointed as independent social worker and completed a full report. I heard the evidence over three days and heard submissions from all parties.
12. All the parties, save for EP, were represented by counsel. At the start of the hearing I dealt with and refused an application by EP to adjourn the hearing, in part, to enable her to obtain legal representation. I gave a judgment explaining why I had come to that decision, and that judgment can be attached to this judgment rather than there be a need for further explanation here.
13. EP has filed 18 statements between 9th February 2018 and 17th February 2020, and so has been able to set out her case and respond to that of the other parties in considerable detail. She is eloquent, intelligent and had prepared detailed cross-examination with appropriate references to documents. She has been offered considerable support by Mr Harrison, counsel for the local authority, and afforded regular breaks throughout the case. The deputy has funded her travel to and from court by taxi each day to remove the strain of her travelling by public transport.
14. To assist her to make relevant submissions, I asked her a number of questions to help her to sum up her preferences for her mother's care and her wishes in respect of contact. At the conclusion of everyone else's submissions, she sought further time to make additional submissions and was allowed to do so, briefly.
15. In respect of residence in the short term, all parties agree that RP should remain in her current flat while other arrangements are made for the mid to longer term. The local authority, JP and the OS say that the existing care provider should remain in place, offering live-in care and with restrictions as to EP's contact, broadly in line with those ordered in November 2019 at page D266. X Care Agency will only continue to offer care if those conditions remain.
16. EP opposes those conditions remaining and seeks a new care agency, H Care Agency, who she says will not insist upon the same level of restriction. There is no assessment

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available to me from H Care Agency. She suggests an arrangement where they are live-in carers but where she can assist in the care, can have unrestricted contact and can assist with feeding and providing medical support. She disputes there is a pattern to such care arrangements breaking down and that the likelihood is that they will break down again very quickly, leading to the inevitable consequence of RP being moved on an emergency basis to residential care unless a fourth care agency could be found, at short notice, to take over the care.

17. In the longer term, EP suggests there should be a move to a bungalow, to be purchased or rented, in Scotland with her living with RP, assisted by carers from a fourth agency who have not yet carried out an assessment but can do so by mid-March. She has provided examples of properties that may be available. Alternatively, she suggests a bungalow should be rented in RP's current hometown, where she will live with RP with carers from H Care Agency assisting her for a limited number of hours each day. This could act as a trial period.
18. The local authority, JP and the OS all oppose her application and support the recommendations of Ms Hunting and Mr McKinstrie that RP should move to Extra Care Housing with a live-in carer, the property to be rented or purchased according to the advice from the deputy, with restrictions upon EP to continue.
19. I have considered the evidence of JP, Ms Hunting and Mr KcKintrie as to the historical concerns of EP's relationship with RP's carers. Ms Hunting said that EP is not able to work in a cooperative way with professional carers; that the care arrangements for RP broke down with B Care Agency following increasing tensions between them and EP; and with the tipping point being EP's allegation, for which she sought a police investigation, that one of RP's long-term carers had bitten RP's shoulder, in September 2019. That was not proven and not pursued further by the police. B Care Agency said that they could not continue; that they had too few workers who were willing to provide care because of the tensions that they experienced with EP and their fear of allegations.
20. There followed, as I have indicated in the brief summary background, a short period when EP provided 24-hour care. That was actually between 22nd September and 7th October last year. X Care Agency were engaged by the deputy for two hours' support each day with a view to that increasing to four hours from 21st October. On 31st October I ordered X Care Agency, as I have indicated, to provide ten hours each day and overnight for two or three nights a week.
21. By November, as X Care Agency had not been able to deliver that care – Ms Hunting said that was due to EP continuing to be present – they gave notice to end the arrangement. On 28th November the court ordered X Care Agency to provide their care 24 hours a day/seven days a week. As I have indicated, restrictions were put in place in respect of EP's care and contact with her mother.

The evidence of Ms Hunting

22. Ms Hunting described her perception of EP and the carers as there being a lack of give and take by EP – a difficulty with her sharing with the carers. The care agency, X Care Agency, had reported that EP would not accept that they should be sleeping there and that the difficulties arose once their level of care increased, as ordered by the court. She

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gave examples of EP not being happy when RP was talking to the carer or on another occasion when she was resting her head on the carer's shoulder and EP stepping in to move her away. She concluded that EP was not willing to share care of RP with professional carers and, as a result, the professional carers have felt intimidated. That is in the context of finding RP herself delightful and very easy to care for. She described, at page G287, EP trying to side-line the carer. She is concerned that EP cannot separate her own needs from those of RP and she attributes her own thoughts and feelings to her mother.

23. In her statement at page 287 Ms Hunting described visiting RP and EP on 12th November when a carer from X Care Agency was also present. She said:

"There were at least three instances when the carer was managing specific tasks in relation to RP's needs - helping her to the toilet, helping her to get off the sofa and providing her with lunch - when EP took over these tasks in a way which I felt was trying to side-line the carer and impress upon the carer that EP's way was better because she knows her mother better. The carer on duty that day quietly stepped aside and let EP continue as she wished to do."

She gave further examples which she suggested were examples of EP's unwillingness to work cooperatively with the carers.

24. In her report at page H57, she further set out concerns that:

"It appeared as though EP is jealous of her mother seeming to be happy and comfortable with others. She does not trust the carers writing in the care log. She asked one of the carers if they are writing what they are told to write rather than an account of what has been done during that shift."

There is the description given by a carer of RP comfortably sitting on the sofa with her head resting on the carer's shoulder, but EP forced her to sit up, saying the first position was not comfortable for her, although RP had positioned herself there. It is commented upon by Ms Hunting that this sounded very much like the position that she had seen RP in on her first visit on 12th November.

25. When questioned by EP and other advocates, Ms Hunting gave her answers after reflection and in a balanced way. She referred to many positives in EP's relationship with RP and the obvious affection between them. She also spoke of the importance of EP in RP's life. I found her to be an accurate reporter of the circumstances as they were reported to her, by many carers and managers, and an accurate reporter of her assessment of the carers' logs. There were examples of EP cooperating with individual carers at times, but the overall pattern was of concerns and tensions, once EP was doing less care and had less control.

The evidence of JP

26. I heard evidence from JP and was able to read the statements which he had prepared. He had power of attorney in respect of their father. It was the father, in fact, who had

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sole power of attorney for RP, and so when the father died in 2017, JP was concerned that RP lacked legal protection and that there were no arrangements in place to maintain her 24-hour care, which had been put in place by their father, that being B Care Agency.

27. In July 2018, in his statement to this court, he expressed concern at the number of complaints raised by EP against the care agency, none of which had been upheld. He made an application to the Court of Protection for orders to assist. In his statement of 28th October 2018, he exhibited notes accompanying the bill of the deputy, which set out concerns between October 2017 and August 2018. Included within those notes were references to the applicant's lawyers not feeling safe entering the property when EP was present; to the psychiatrist, who needed to visit, wanting someone else present as he felt uncomfortable in EP's presence; to a considerable number of complaints raised by EP against the care agency which threatened the care package; and to carers' reference to EP's erratic behaviour.
28. EP had also made a complaint against the deputy's firm and against the social worker who had expressed concern about EP's mental health. He expressed concern about the pattern of the hostility by EP to carers which impacts upon the care of RP and her stability. He has avoided seeing RP with EP there to keep RP free from confrontation. In his oral evidence he described difficulties in their relationship for decades, but it being very very difficult since his father died. He described leaving when EP made a scene at solicitors, and there was a clear pattern of him endeavouring to avoid confrontation with EP.
29. He denied telling carers not to say nice words about EP. He was clear that he does not feel safe in EP's presence, given that EP had made an allegation that he had been rough with RP and that the police had been called when EP was taking items of property from RP's flat. He was straightforward in his responses. There was no attempt to embellish his accounts and there was often simply factual reporting of what had been reported to him over time, together with his accounts of his own experiences of EP, for which there was corroboration; for example, the notes of attendance of the deputy, the care logs, the accounts of the social worker and the independent social worker.
30. There has been no criticism of him or his behaviour to RP; nor his management of her affairs; nor that of his father by any professional, or indeed by anyone save EP, over many years of professional involvement. I found him to be a reliable and credible witness, whose only concern appears to be the best interests of his mother.

The evidence of MP

31. JP called MP as a witness in support of some of his concerns. I did not find her evidence at all helpful in respect of the issues I have to decide. Her accounts were largely reporting gossip and information reported to her second and third hand. Where she reported seeing EP outside her mother's flat during the period that EP was caring for RP, she could not say if someone else was actually caring for RP at that time.

The evidence of Mr Skidmore

32. I heard evidence from David Skidmore, who conducted the section 42 Care Act investigation to determine if RP had been subject to abuse or neglect. EP was caring

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for RP at that time. His role was limited to that enquiry. He felt, in the context of his investigation, that EP could manage looking after RP rather than for RP to move to residential care. He did not have all the information which is now available to the court. His evidence was important to highlight the ability of EP to provide good care for her mother for short periods and when only she is involved in the care. No-one proposes this as the way forward; nor as something which is sustainable given RP's high level of need.

The evidence of EP

33. I have considered each of the 18 statements prepared by EP, which gave considerable detail and responded to each of the allegations made against her. When EP cross-examined witnesses she mostly felt the need to comment upon each of their answers, to have the final say, despite repeated reminders from me that it was inappropriate. From her cross-examination and her evidence I was left with a real sense of her inability to listen to the concerns of others, to reflect upon them, to empathise with those caring for her mother professionally or to take on board the specific needs of RP for stability of care.
34. EP could focus on the limited positive comments about her care of her mother, but could not reflect upon the bigger picture of the professionals and the carers feeling anxious, intimidated by her behaviour, causing them to want to withdraw from assisting RP and the adverse impact of this upon RP. She denied the extent of the complaints and attributed them to JP encouraging them to make those complaints and to force silence from those who were positive about her. She conceded that she had lost the trust of the managers of the two relevant care agencies, but said that she had not lost the trust of the individual carers. There was no evidence to support her in that.
35. Her focus was very much upon her knowing RP best and her right to pick and choose when she visited RP or offered to care for her, even in the face of the second agency, X Care Agency, saying that they could not continue to care unless there were strict conditions in place. Her solution, an unrealistic one, is to move on to a new agency without any acknowledgment of her own responsibility. Sadly, she has demonstrated no insight into the problems caused by her behaviour. Without that, I can have no confidence in her ability to change her behaviour with carers in the future in any sustained way.
36. Where there were differences in her account and those of the carers and those of JP, of Ms Hunting, of the deputy for financial affairs and the solicitor instructed by the Official Solicitor on behalf of RP, I prefer their accounts. I do not doubt that she loves RP very much and that she wants her to be happy and cared for, but she is unable to work alongside others to bring that about. She shows rigid thinking in her belief that only her way is right. There is a clear pattern of her poor cooperation with professional carers and at times open hostility to them which has led to a breakdown in arrangements with B Care Agency and a near breakdown with X Care Agency. The evidence suggests increasing tension and an increasing number of allegations are made when EP is determined to effect a change in the professional care arrangement.

The evidence of the independent social worker

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37. I heard evidence from Mr Keith McKinstrie, the independent social worker, and read his very detailed report. He assisted the court by listening to the evidence of EP and JP before he gave his own evidence. He explained when he gave his evidence that he prepared transcripts of anyone that he interviewed for his report and sent those transcripts to the interviewees to ask them to note any amendments and return them to him. Of his comments of his interview with EP, which spans some four and a half pages, he had asked her if she wished to make any changes to those notes and exhibited two letters, each dated 28th January this year, which she sent back in reply. Those two letters totalled six and a half pages as to what she felt she had said to him and questioning him as to matters which she thought had been omitted.
38. He interviewed not only EP, but JP, Debbie Anderson (the deputy), Marie O'Malley who works with the deputy, and Ms Hunting. Ms Anderson had conceded to him that there were some concerns about B Care Agency lacking a professional approach and personalising issues with EP. There was also a concern that they had a high turnover of carers; that there had been a difficulty finding another agency because other agencies were aware of the tensions between JP and EP and the court proceedings. He also received a letter from AR, an advocate for RP, and noted that she spoke positively of EP's care of RP and the good relationships between RP and EP and between RP and her carers. He gave a detailed analysis of RP's health and social needs at pages K40 - K44 of his report and then went on to give his consideration of RP's best interests. In his oral evidence he came to the same conclusion as Ms Hunting: that, in the short term, RP should live in her flat with a live-in carer.
39. At paragraph 7.1.7 he said that there were differences of view between EP and the care agencies as to how RP is best supported.

"EP's lack of confidence in her mother being supported by anyone other than herself and the carers feeling intimidated and undermined by EP's attitude and behaviour towards them have led to inconsistencies in the way that RP has been cared for."

In the longer term, he concluded that EP should not live with her mother. He carried out a balance sheet analysis of the options and concurs with the view of Ms Hunting that RP should reside in extra care housing with a live-in professional carer provided by X Care Agency.

40. His evidence was tested by all the parties. EP went through his report with him in detail, but he did not alter the opinions he had proffered, nor his conclusions. His investigation and reporting was thorough. When he gave his oral evidence, he did so with signs of careful and balanced reflection. His extensive experience and professionalism was evident.

Analysis

41. In respect of the Scotland option, EP has suggested that RP would wish to return to Scotland from where she moved some 15 or so years ago and where her sister still lives. I have read letters from RP's sister and her brother. RP's brother lives in Scotland some distance away. EP has suggested there is a support network of former friends and family who would spend time with RP if she were to return. She accepts the journey

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would take considerable planning but could be achieved. She does not accept that RP would be confused by a dramatic change in her environment. She has not challenged the view of the professionals that her mother would be unlikely to have any recollection of friends and family living in Scotland. She does not believe difficulties in respect of JP visiting Scotland should be a factor in the decision.

42. JP has expressed doubt that the support network exists. He says that neither the sister nor the brother came to his father's funeral; nor have they visited RP in her current flat. No friends from Scotland came to the funeral. Two cousins attended. He does not believe that RP had ever expressed a wish to return, although his father had. He would find it very difficult to travel there, it being a six-hour-plus journey each way from London, and his concern would be that RP would be more isolated.
43. Mr McKinstrie had not found evidence of RP being preoccupied in her thoughts in respect of Scotland, and was clear in his conclusion that she would be confused by a change in her environment and to be in unfamiliar surroundings. He had seen no evidence of an extensive support network as professed by EP. The difficulty in JP getting to Scotland would be another negative factor. He thought it would be very traumatic for RP to move, assuming arrangements could be put in place to make the journey tolerable and a care provider could be engaged.
44. I do not find that RP has expressed a meaningful wish to return to Scotland in recent years. I have not seen evidence which could cause me to be satisfied that there are friends and family who would now be familiar to RP and who would regularly support her socially if she were to return. I do accept the evidence of Mr McKinstrie that she would be very confused by a move now to somewhere completely unfamiliar to her in her current state of Alzheimer's and that that would place considerable difficulties for her relationship with JP. I agree with him that there is no discernible benefit to her in such a move to Scotland and that she would become confused, anxious and distressed. Even if RP had indicated a wish to return to Scotland to EP, I have to consider that she has not done so to the solicitor instructed by the Official Solicitor on behalf of RP, Yvonne Chapman; she has not done so to Mr McKinstrie; nor to JP, so that Yvonne Chapman and Mr McKinstrie have been unable to ascertain her wishes and feelings. So in this case the wishes and feelings of RP are unclear and there is no evidence that elevates her wishes and feelings to be of magnetic importance.
45. It is the views of others which are of magnetic importance: the views of Mr McKinstrie, Ms Hunting and the deputy for property and affairs – their analysis of what is in her best interests. Their views are shared by JP and have the support of the agency providing care for RP at this current time. All are overwhelmingly in support of RP in the short-term remaining in her flat with X Care Agency, known carers, continuing, and the restrictions being in place on EP's contact and care of RP to allow that to happen.
46. All, too, are in favour of a long-term move to extra care housing with a live-in carer provided by X Care Agency in a way determined by the deputy – so either to rent or purchase a property – and with conditions continuing upon EP to enable that care package to be put into effect. In view of the conclusions I have come to in respect of the evidence, I am in no doubt that there continues to be a need for those restrictions to be in place. It is only in that way that RP can continue to be cared for by professional carers. Without such restrictions, the current and any future care packages are very

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likely to breakdown. Hence, the interference in EP's right and RP's right to a private family life. I accept there has to be an interference with that, but the response of this court is a proportionate response to the risks which are posed.

47. The restrictions should be as set out in the order which is at page D266 with paragraph 15 deleted. There will need to be some amendment with regard to food and meals that RP can have out with EP. The need for those restrictions leads me to the conclusion that I support fully the balance sheet analysis of Ms Hunting and of Mr McKinstrie as to the placement options in both the short and the long term. It is in RP's best interests for X Care Agency to remain as carers for RP in her flat. Sadly, I have no confidence that a change in carers would bring about a situation where EP could be involved in RP's care in a way in which a care plan could be sustained.
48. EP's relationship with her mum is very important. That can be maintained through a contact plan as is proposed by Mr McKinstrie and Ms Hunting. Likewise, JP's relationship is important and there is an acceptance by him, and indeed by others, that his contact should be unrestricted, save as to his agreement to give everyone reasonable notice of his intentions so that it does not interfere with the planning in place for his mother and in terms of carers supporting her.
49. I accept the conclusions of Ms Hunting and of Mr McKinstrie that EP should continue to have unsupervised contact with her mother. I have considered JP's wish for it to be supervised. He clearly was concerned that the fall which his mother had where she suffered a significant cut to her face should not have occurred when she was with EP, but the evidence before me suggests that that was an isolated incident. The outcome has distressed EP and it is clear that she has reflected upon it and the need now to link arms with RP whenever she is out with her.
50. I am happy with the suggestion that there is a trial now of EP being able to have a meal out with RP once a week so long as EP is willing to cooperate with any dietary plan which is in place for RP and is prepared to communicate with the professional carers about the arrangements. It is clearly important that there is a review of any such arrangement. It is also clear that it is envisaged that, at any stage in her time with her mother, EP is able to offer her mother snacks as they will undoubtedly spend times in cafes on occasions. It is also agreed that EP should be able to offer emergency care on occasions as it becomes necessary, and again the wording on those restrictions will need some careful thought over the course of this afternoon.
51. The next period needs to be used to plan RP's next move. It should be to Extra Care Housing with a live-in carer. It would be sensible for another agency to be spoken to as a contingency measure. It is a matter for the deputy as to whether or not the home is rented or purchased. The possibilities for RP to engage with other residents regularly, even in a limited way, and to have access to an on-site hairdresser and café and to live in accommodation which is designed for an elderly person with mobility issues is what tips the balance in favour of that accommodation over a bungalow in her current local area. I reject the suggestion of a move to Scotland for the reasons which I have given already and I agree in full with the analysis of Mr McKinstrie in that regard.
52. It is clear, finally, that there is a need for the deputy for financial affairs to be appointed to act in welfare matters under section 16(2)(b) of the Act, but, as subsection (4)(b)

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provides, it should be limited in scope and duration. That should be to enable her to review the contact as between EP and RP, to review those conditions, and to make decisions and arrangements as to the move to Extra Care Housing. Happily, Ms Anderson has agreed to undertake those tasks and I will need to see an order that provides those extra powers to her.

This Judgment has been approved by the Judge.