

FD 17 P 00103 AND FD 17 P 00358

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

**IN THE MATTER OF THE INHERENT JURISDICTION OF THE HIGH COURT
AND IN THE MATTER OF S.8 CHILDREN ACT 1989**

BETWEEN

GREAT ORMOND STREET HOSPITAL FOR CHILDREN NHS FOUNDATION TRUST
Applicant

AND (1) CONSTANCE YATES

(2) CHRIS GARD

(3) CHARLIE GARD
(A CHILD, BY HIS GUARDIAN)

Respondents

**BEFORE MR JUSTICE FRANCIS SITTING AT THE ROYAL COURTS OF JUSTICE
ON 25 AND 26 JULY 2017** in public (the parents having confirmed they did not wish to have the main part of the proceedings dealt with in private) and the submissions and the material contained in the Confidential Annexe being dealt with in private on 26 July 2017 and the substantive terms of the order (excluding the Confidential Annexe) being announced in public

UPON HEARING counsel Ms Katie Gollop QC on 25 July 2016 and Counsel Fiona Paterson on 26 July 2016 for the hospital, counsel Grant Armstrong for the parents and counsel Ms Victoria Butler-Cole for the Guardian

AND UPON the court having read position statements from the GOSH and the parents

AND UPON it being the case that five theoretical options have been investigated in respect of withdrawal of ventilation:-

- a) Withdrawal at GOSH
- b) Withdrawal at a hospice shortly after transfer

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- c) Withdrawal at a hospice after a period of continuing ventilation
- d) Withdrawal in a home setting shortly after transfer home
- e) Withdrawal in a home setting after a period of continued ventilation at home of a few days

AND UPON GOSH indicating that in order for it to be possible for Charlie to have ventilation withdrawn in a home setting, the following would need to be in place:-

- a) Transport to the premises accompanied by an intensive care nurse and a paediatric intensive care doctor.
- b) If Charlie was to be ventilated for more than a short period of time (i.e. option (e) above) before being extubated, this would require a team of intensivists to oversee this. This would be likely to include 2 or 3 paediatric intensive care doctors and 4-6 paediatric intensive care nurses, to cover 24 hour care for a period of a few days. He would also require an intensive care-style bed. The necessary equipment would include the ventilator, suction machine and an appropriate gas supply (which may require a health and safety assessment).
- c) If Charlie was not to be ventilated for more than a short period of time (i.e. option d above) before being extubated, a paediatric intensive care doctor would be required in addition to the paediatric intensive care nurse who had been present for transport purposes.
- d) It would also be necessary for access to the property to be physically possible in light of the size of the equipment required. This includes the trolley and the ventilator. Charlie cannot be transferred into a smaller cot or portable ventilator because he does not have a tracheostomy in place and because his current form of ventilation cannot be provided in any other format.

AND UPON GOSH informing the court that they have not been able to identify any paediatric intensive care doctor at GOSH or elsewhere in the country (via NHSE London) who are willing to oversee the provision of ventilation at home for a period of days because:-

- a) Charlie does not have a tracheostomy and his endotracheal tube cannot be easily reinserted (recent change of tube took 1 hour 45 minutes in a controlled ICU setting)
- b) There is a high risk of unplanned extubation outside a controlled hospital environment
- c) There will be a lack of back-up care
- d) The environment of a family home is unlikely to be able to be adequately set up to meet Charlie's particular intensive care needs
- e) Provision of intensive care in a home setting would not be covered by a medical professional's insurance and would not be licensed

AND UPON GOSH informing the court that they have not been able to identify any hospice that is willing or able to oversee the provision of ventilation for a period of days before extubation for similar reasons

AND UPON the parents having filed evidence suggesting that two private nursing agencies may be willing to provide nursing care to enable Charlie's ventilation to be withdrawn in a home setting

AND UPON a conversation having taken place at court between a consultant in paediatric palliative care and the two professionals identified by the parents

AND UPON the court considering on 25 July 2016 that if there is to be an option of withdrawal in a home setting following a longer period of ventilation, the following would need to be in place by **4pm on 26 July 2017:-**

- a) A team of paediatric intensivists, including a paediatric intensive care consultant with overall responsibility for Charlie's care in the home, willing to oversee the process
- b) Confirmation that a home setting was available into which the necessary equipment could be transported and where Charlie could be safely cared for
- c) A health and safety assessment of the home
- d) Confirmation that the necessary equipment could be obtained within 24 hours.

AND UPON the court receiving information on the morning of 27th July 2017 that the parents indicated to Charlie's treating clinical team at GOSH during the evening of 26th July 2017 that they still wish to explore the possibility of Charlie being transferred home or to a home setting.

AND UPON the Court repeating the Declarations made on 11 April 2017 for the purposes of clarity

AND UPON it being apparent to all parties that the arrangements set out below will inevitably result in Charlie's death within a short period of time thereafter.

AND UPON the Supreme Court having made a reporting restrictions order on 8 June 2017 (amended on 17th July 2017)

IT IS DECLARED THAT:-

1. Charlie's by reason of his minority lacks capacity to make decisions regarding his medical treatment
2. It is not in Charlie's best interests for artificial ventilation to continue to be provided to him and it is therefore lawful and in his best interests for it be withdrawn

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3. It is lawful and in Charlie's best interests for his treating clinicians to provide him with palliative care

4. In the absence of agreement between:-

- a. the Guardian; and
- b. GOSH; and
- c. the proposed intensive care treating team

for provision of intensive care in a hospice setting for an extended period of a few days, by 12 noon 27 July 2017, it shall be lawful and in the best interests of Charlie for the following arrangements to be implemented:-

- i. Charlie shall continue be treated at GOSH for the period set out in the Confidential Annexe hereto
- ii. Charlie shall then be transferred to an agreed hospice the details of which are set out in a Confidential Annexe
- iii. It shall be lawful for artificial ventilation to be withdrawn after a period set out in the Confidential Annexe.

5. No order for costs.

6. For the avoidance of doubt no one shall in connection with these proceedings publish or reveal:-

- a. The identity of any agency care provider, health professional or expert who has been or may be engaged by Charlie's parents in relation to proposed arrangements for Charlie's care, other than those set out at paragraph 4(i)-(iii) above;
- b. For the avoidance of doubt, the doctors who attended court on 25th and 26th July 2017 on behalf of GOSH are part of Charlie's treating team and therefore are covered by the terms of the reporting restrictions order made by the Supreme Court dated 8th June 2017 and amended on 17th July 2017.
- c. The identity of the Hospice and/or its actual or approximate location (including the County in which it is situated)
- d. The identity of any treating staff from the Hospice
- e. The details of the Confidential Annexe
- f. Any picture of any of the above

Or publish or reveal any information which would be likely to lead to identification in connection with these proceedings

