Neutral Citation Number: [2025] EWCOP 30 (T3)

Case No: COP 14028041

IN THE COURT OF PROTECTION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31st July 2025

Before :

MRS JUSTICE ARBUTHNOT

- -

Between

(1) PATRICIA'S FATHER

(2) PATRICIA'S MOTHER

(3) PATRICIA'S AUNT

Applicants

-and-

PATRICIA (by her litigation friend, the Official Solicitor)

1st Respondent

-and-

NORFOLK AND NORWICH UNIVERSITY HOSPITALS NHS FOUNDATION TRUST

2nd Respondent

-and-

NORFOLK AND WAVENEY INTEGRATED CARE BOARD

3rd Respondent

-and-

CAMBRIDGESHIRE AND PETERBOROUGH NHS FOUNDATION TRUST

4th Respondent

- -

Mr Oliver Lewis (direct access, pro bono) for the **Applicants**
Ms Victoria Butler-Cole KC (first two hearings) and Mr Parishil Patel KC (instructed by the Official Solicitor) for the **1st Respondent**
Ms Katie Gollop KC (instructed by Browne Jacobson) for the **2nd Respondent**
Ms Katie Scott (instructed by Mills and Reeve) for the **3rd Respondent**
Ms Sophia Roper KC (instructed by Kennedys) for the **4th Respondent**

- -

Hearing dates: 3rd and 4th March, 10th March, 13th March and 17th March, 7th and 8th April, 20th May 2025.
Written Submissions 20th June, Draft Judgment 14th July 2025.

This judgment was handed down to parties via email at 3pm on 31st July 2025. A transparency order is in force. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of Patricia must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

- -

JUDGMENT

Introduction

1. This is an application brought by the parents and aunt of a woman who has previously been anonymised to "Patricia". Patricia is aged 25 and has lived with anorexia nervosa ("AN") since she was aged about 10. Patricia is very ill because she is not consuming sufficient calories. She is malnourished. When this case started in March 2025, her body mass index ("BMI") was thought to be around seven or eight and I was told she weighed about 19kg, which is what many five year olds weigh. She had not been able to walk unaided for two years and suffers bed sores. She has osteoporosis.

2. Patricia also has been diagnosed in the recent past with autism and with pathological demand PDA avoidance ("PDA"). The combination of the PDA and AN means that although she has repeatedly said she wishes to live, she refuses to consume the calories that she requires to be able to walk without a Zimmer frame, let alone to have an enjoyable and productive life out of hospitals and Specialist Eating Disorder Units ("SEDUs").

3. Throughout these proceedings, Patricia has been an in-patient at Norfolk and Norwich University Hospitals NHS Foundation Trust ("the hospital"). Patricia had said she wanted to go to a SEDU but when this case started she was not medically fit enough to go to one because of her low BMI and her lack of medical stability.

4. The applicants initially relied on the evidence of Dr Ibrahim, a consultant psychiatrist, who recommended that the court make an order that Patricia be fed under restraint by nasogastric ("NG") tube. His recommendation was that she be fed until her weight was fully restored, a weight of about 50 kilos, which she had never experienced.

5. As the case continued, no SEDU was prepared to commit to that sort of weight restoration and in the event, as of July 2025, there is only one SEDU available (I will call it SEDU 3) which may be able to treat Patricia if the orders made by Moor J in 2023 are lifted and Patricia assessed positively by the SEDU. Some of the evidence which I have heard is of less relevance now full weight restoration is not available and I consider it in less detail below.

6. Patricia's situation was considered by the Court of Protection in 2023, when it ordered in accordance with Patricia's strongly expressed views that it was in her best interests

not to receive nasogastric tube feeding with restraint and not to receive any other medical treatment against her wishes and that Patricia should be given autonomy to make her own decisions about whether she put on weight or not. The parents and aunt were not parties in the 2023 proceedings, there was no appeal and they said they had not understood the import of the decisions made.

7. An only child, her family love her deeply and her parents and aunt contended that the order of 2023 should be lifted so that Patricia can have the treatment the clinicians consider she needs, otherwise she was likely to die soon.

8. The applicants were represented pro bono by Mr Lewis. I am very grateful for his assistance. The first respondent is Patricia, through her litigation friend, the Official Solicitor, who is represented by Mr Patel KC. The second respondent is the hospital represented by Ms Gollop KC. The third respondent is the Norfolk and Waveney NHS Integrated Care Board ("the ICB") represented by Ms Scott and the fourth respondent is the mental health trust, Cambridgeshire and Peterborough NHS Foundation Trust ("CPFT"), represented by Ms Roper KC.

9. I must observe that Patricia vociferously opposes the applications made by her parents and aunt. I have met her twice and she has sent a number of emails to my clerk in which she makes her views clear. She has said that she wants Moor J's orders to remain undisturbed. Any change would not be in her best interests and would lead to a worsening of her AN and a reduction in the calories she consumes. She wants to live but what she does not want to do, or is unable to do, is to eat to a level which is sufficient for her to stay alive.

The hearings in 2025

10. The application came first into the Court of Protection urgent list on 3rd March 2025 on an *ex parte* basis, when the applicants relied on a statement from Dr Ibrahim, a Consultant Child and Adolescent Psychiatrist with a special interest in eating disorders. The urgency was that the applicants believed that Patricia was about to be discharged by the hospital to a palliative care setting to die. I issued an interim injunction at the *ex parte* hearing on the morning of 3rd March 2025 that Patricia was not to be discharged from the hospital until the matter had been determined at a hearing I listed later that day on notice to all the parties.

11. A further hearing took place on 4th March 2025 by which time three of the parties had been served and were represented. The Official Solicitor represented Patricia as she had in part of the proceedings in 2023. The case was then adjourned to Monday 10th March 2025.

12. On 10th March 2025, CPFT was joined as a party. The matter was adjourned to 13th March for the hospital and ICB to put together a plan which would enable nasogastric ("NG") feeding with restraint to be provided by a specialist agency, if the court endorsed a lifting of the earlier orders made by the Court of Protection in 2023. The agency consulted said restraining Patricia would put her too much at risk and were not prepared to offer it.

13. At that stage, Patricia did not know about the application being made by her parents and aunt. There were concerns about the potential effect on her if she found out. It was

proposed that Patricia would be told about it by the applicants before a lawyer from the Official Solicitor's office met her prior to the hearing of 13th March 2025.

14. Patricia found out about the application by way of an email from a member of hospital staff, sent under the impression that the applicants had already told her of its existence. She was distraught. Patricia then spoke to a lawyer from the Official Solicitor's office and I had a remote meeting with her later that morning. She then joined for some of the hearing. It was not clear whether she understood (or had been told) that her parents and aunt were the applicants.

15. I heard evidence that day from three of her treating specialists, Dr PI, a consultant gastroenterologist based at the hospital, Dr W a psychiatrist based at SEDU 1 and Dr B, who is a clinical psychologist and the director of SEDU 1. Dr Ibrahim gave evidence on 17th March 2025. I heard submissions on Wednesday 19th March 2025.

16. By 18th March 2025, the hospital was clear that they would not accommodate force feeding by nasogastric tube, unless there was a SEDU committed to providing the follow-on care which had to involve force feeding if necessary.

17. On 19th March 2025, Ms Scott on behalf of the ICB said she had no agency that was able to restraint Patricia, so that it was not an available option for the Court to choose in her best interests. The ICB was going to make enquiries with another company which specialised in restraint of particularly vulnerable patients.

18. On 7th April 2025, I had a second short meeting with Patricia and with her legal representatives. Her weight had come up to 21.5kg. During the hearing I heard from Dr PI again. I heard from Professor Paul Robinson, who had been the independent expert who gave evidence in the earlier proceedings in 2023. On 8th April 2025 I heard from Professor S who had treated Patricia in a SEDU in the North of the UK for a lengthy period of time. Finally I heard from both of Patricia's parents.

19. I adjourned the case to 20th May 2025, to obtain written evidence from another specialist in restraint. That expert was the second one to say it would be too risky to Patricia to try and restrain her to enable NG feeding to take place and they were not prepared to do it at her current weight.

20. By 20th May 2025, SEDU 3, said they might admit Patricia for treatment when they had an available bed if the 2023 orders was lifted. I heard submissions from the parties and then adjourned to obtain further information.

21. Unfortunately, seven weeks on, no bed is available at SEDU 3 and it could be weeks or months before a bed might become available. The evidence is that the offer of a bed depends on a number of variables. I received further submissions on 20th June 2025.

22. Throughout the proceedings, Patricia has sent regular emails to my clerk setting out her wishes. The most recent one was dated 14th July 2025 as I was writing this judgment. Patricia had a consistent position which she repeated to me when I met her, that she did not want to be force fed. She said she was terrified by the thought and said she would fight any attempt to do this. She had been force fed before which she described as torture. She is autistic and suffered from PTSD and PDA and the idea that there was a risk of her being force-fed was causing her to bang her head and to have panic attacks.

23. There was one SEDU which she did want to go to, which I will call SEDU 1 in line with the Transparency Order made in March 2025 which was local to the hospital and the parents of Patricia. This is an independent SEDU which did not carry out NG feeding under restraint.

Issues for this Court

24. In the 20th June 2025 submissions, the parties put forward three suggestions for the way I should approach the case. The applicant parents and aunt said that I should make no decision about whether in principle I could re-visit the order and if so, whether I should in fact lift it until Patricia had been assessed for and then been allocated a bed in SEDU 3. The hospital and CPFT said I should make decisions about both forthwith. The Official Solicitor and ICB contended that I should decide the first issue only (i.e. whether I should re-visit Moor J's order of 2023).

25. In the event, I made a case management decision to deliver this judgment and not to await the availability of a bed at a SEDU. I gave separate written reasons for that case management decision in [2025] EWCOP 29 (T3) . Mr Lewis for the applicants wanted to consider whether his clients wished to apply for permission to appeal. They decided not to.

26. The first issue was whether in principle I could re-visit the 2023 order and secondly, if so, whether I should discharge the declarations made by Moor J in 2023. This would allow Patricia to receive whatever treatment the clinicians treating her consider she needs, whether that involves force feeding or not. The lifting of the order would bring her position into line with nearly every other anorexic patient in the country, as it would remove any perceived barrier to Patricia being detained and treated compulsorily under the Mental Health Act 1983 ("MHA").

27. It is not disputed by the parties that there is reason to believe that Patricia does not have capacity to conduct the litigation herself and to make decisions as to her medical treatment for AN. It is not the position that someone with AN would never have capacity, it depends on their state of health, and whether they are unable to make the decision because of the AN, which is an impairment of, or a disturbance in the functioning of, the mind or brain. In 2023, at times, Patricia had capacity to conduct the proceedings and at other times when she had lost weight and her health had deteriorated generally, she no longer had it. I heard unchallenged evidence that the brain shrinks as the AN takes hold. Patricia is at a very low weight indeed with a BMI of about nine: I heard evidence that this is likely amongst the lowest in the country. Her cognition is greatly affected by this disease. I find she lacks capacity to conduct litigation or make decisions in relation to her treatment for AN.

A brief account of Patricia's treatment.

28. There was very limited evidence about the treatment received by Patricia at the first hearing of the application. As the respondents provided evidence, it turned out that over the years, Patricia had been admitted either voluntarily or compulsorily to numerous SEDUs, some when she had been sectioned under the MHA. By 2023 she had had 27 stays as an in-patient in SEDUs and she had also had NG feeding under restraint on six occasions and over a few days in May 2022 with her consent. She had been at home for only eight months since her diagnosis 13 years before.

The 2023 proceedings

29. In 2023, Mr Justice Moor considered Patricia's case on a number of occasions. Three hearings led to published judgments, on 9th May 2023 [2023] EWCOP 41, the 15th May 2023 [2023] EWCOP 42 and 2nd October 2023 [2023] EWCOP 70.

30. I have set out below a summary of Moor J's decisions because one of the questions raised before me was whether, as a matter of principle, I was able to re-visit his decisions that it was in Patricia's best interests not to receive nasogastric tube feeding with restraint and not to receive any other medical treatment against her wishes.

31. In April 2023, Patricia was in and out of hospital and by 27th April 2023, Moor J was told that she was in a very serious condition. The matter had been listed to come before the judge on 15th May 2023, but Patricia's liver started failing and she was said to be in the "pre-death phase".

32. On 9th May 2023, CPFT was of the view that Patricia should be force-fed by NG tube under restraint. Moor J had heard expert evidence including from the leading psychiatrist Professor Paul Robinson who specialises in eating disorders and was initially instructed by the Official Solicitor, and then – after the Official Solicitor's appointment had been brought to an end – by Patricia's own legal representatives.

33. Patricia did not want treatment forced upon her. Various plans were put forward to the court. Plan A had Patricia going home to "take control of her own destiny". Plan C was a restraint plan and some form of force feeding. Professor Robinson described that that Plan C would be "extremely unpleasant" for her, for her family and for clinical staff and was unlikely to work. Force feeding would cause her "distress, panic, self-harm and perhaps worse". In his oral evidence, however, Professor Robinson said that if Patricia were his patient he would not allow her to die from anorexia. He would do whatever was needed including force feeding to keep her alive. He described the AN as her partner which was controlling the other part of her mind and stopping her carrying out her wishes.

34. Moor J heard from three doctors, who considered the court should approve NG feeding with restraint. One doctor said that without it Patricia's survival curve was "very poor". He said that the force feeding would "give her a future". The third doctor who had never before been in favour of force feeding said she had never seen Patricia as ill as she was then. She said that Patricia had said she would fight it but the doctor noted she had consented to NG feeding in May 2022 because she wanted to avoid being sectioned. After a few days Patricia had said it was a bit unpleasant but not a big deal. The doctor said Plan C was "the last chance saloon" for Patricia, she should be force fed, and when better, sent home where she should be left to her own devices.

35. Moor J heard from Patricia and her father. She had told the judge in a position statement filed at a point where Patricia was instructing her legal team herself, without the involvement of a litigation friend before 9th May 2023, that "she was extremely distressed by the thought of being force-fed and she would fight it with everything that she could". She was terrified by the thought of it. She considered it to be torture. She had had six episodes of force-feeding over the years, it had made her feel suicidal, it involved agonising pain.

36. Patricia said that "she would only recover of her own accord" and her best chance was if she tried to increase her intake voluntarily. She said that if something was imposed on her she would "down tools". She also said that she only wanted NG feeding if she were unconscious, with her BMI below 11.5 and it was "reasonably believed that she can regain consciousness to save her life". She told Moor J that she would not drop below 1200 calories a day and would increase it.

37. Patricia's father said the thought of her dying was more terrifying than the thought of her being held down and force-fed. He said the litigation was having a hugely detrimental impact on her.

38. Moor J found there was reason to believe that Patricia did not have capacity to take decisions as to her medical treatment. In terms of best interests, Moor J said he was influenced by Patricia doing what she had promised to do. In a week in May 2023, she had increased her intake by 50%, from 700 calories per day on 3rd May 2023 to 1200 on 8th May 2023.

39. Moor J refused to approve NG feeding under restraint. He was conscious that if he ordered it, it would cause Patricia "enormous distress, possibly physical harm and damage to achieve very little perhaps a short term improvement and then a long term deterioration again". He said that if it was to work than Patricia had to do it for herself. He asked her to consider consenting to NG feeding if her liver deteriorated further.

40. The matter was then listed on 15th May 2023 when Moor J heard from Professor Robinson about Patricia's lack of capacity to make decisions as to the management of her anorexia. Professor Robinson said that when she was asked to do something which might lead to weight gain she did the opposite. This was because her decision making was "taken over by her anorexic illness". The anorexia controlled part of her mind and stopped her from carrying out what she knows is in her best interests.

41. Moor J pointed out that by 15th May 2023, Patricia had increased her intake to 1,300 calories a day but that her intake needed to be 2,000 calories per day to leave the hospital to go home or into a SEDU. He said that Patricia should have her autonomy. He said NG feeding by force would be futile and cause her distress and turmoil. He accepted her evidence that if she put on weight by being forcibly fed, she would lose it again as soon as it stopped. He declared that it was in Patricia's best interests not to receive NG feeding with restraint "during her current hospital admission".

42. On 2nd October 2023 the matter came back before Moor J. He described it as one of the most tragic cases he had had to deal with. He recognised that the decision not to force feed Patricia might well mean that she would eventually die.

43. In his judgment he set out what had happened since the order in May 2023. After a significant improvement, Patricia's situation had deteriorated again. The week before, Patricia had said she now wished to go into a SEDU. One of the conditions for admission was that the patient had to be medically stable. Patricia was not.

44. On 2nd October 2023, Moor J said that his order of 15th May that it was not in Patricia's best interests to be force fed using restraint, was to apply to all hospital admissions. He said that she was not to receive medical treatment against her wishes. He said it would be wonderful if she was prepared to accept treatment and could get better but he

recognised that "we are almost certainly past that point". He said it was the only possible outcome in the case and he could not conceive anything more distressing for Patricia than to impose on her treatment that she desperately did not want.

The 2025 proceedings

45. The proceedings were brought because the applicants feared that the hospital was about to discharge Patricia into a care home where she would receive palliative care. Since they started, Patricia has remained an inpatient in the hospital with day visits home, and occasional overnight stays.

46. The applicants relied on evidence given by Dr Ibrahim, a consultant psychiatrist, who had met Patricia informally three times. It is fair to say that without his evidence, the proceedings would probably not have continued past the first or second hearings. I noted, however, that before his first statement he had not read Patricia's medical records nor spoken to those treating her yet in this statement he had criticised the hospital and other units for the way they had treated Patricia in the past. This was based on conversations with the parents and Patricia. The criticism in his first and indeed second statement was undeserved.

47. Dr Ibrahim told the court he had never been an expert witness or given evidence before. He had not read the 2023 court judgments and I considered he had not reflected sufficiently on the effect the 2023 orders had had on Patricia's treatment. He was correct, however, when he said that the 2023 orders allowed Patricia to decide what to accept or refuse when she was being treated.

48. The position initially taken by the applicants, relying on the evidence of Dr Ibrahim, was that forced NG feeding should take place until Patricia was at full weight, first at the hospital and then at a SEDU. A point made by Dr Ibrahim in his evidence was that no attempt had been made before to feed Patricia to full weight. This turned out to be inaccurate.

49. At various hearings I heard evidence from witnesses who by contradistinction to Dr Ibrahim had had been working with Patricia, in some cases, for many years. Dr PI gave evidence twice in these proceedings, she is Patricia's named consultant and is a consultant gastroenterologist at the hospital. She was a quietly impressive witness whose hospital and the treatment it had given Patricia had come under attack unfairly, in my judgment. Even before Professor Robinson described Dr PI as very skilled, caring and very knowledgeable, it was clear to me that she was.

50. Dr W the psychiatrist at SEDU 1 gave evidence. He had worked with Patricia on and off for about ten years. Dr B is a psychologist and the clinical director of SEDU 1which works with Patricia when she allows him to. I also had written evidence from Dr PE, a consultant psychiatrist with CPFT.

51. Dr PI set out the complexities of Patricia's condition and explained that Patricia had been offered every placement and treatment possible since she had had AN. Dr PI knew Patricia well and her analysis of what Patricia wanted was echoed by other witnesses.

52. Patricia had told her on many occasions that she did not want to be completely cured of her eating disorder but wanted to improve her body weight and her physical

functioning so she could live with AN. Patricia was "very very frightened" that NG feeding would lead to her putting on weight but at the same time she wanted to gain weight so she could walk again.

53. Patricia lacked insight into the risk of death that she currently faced. Her rationale was that she had been at her current body weight for a very long time and she had not yet died. There were contradictions in her position, she wanted to live but did not want to gain weight, yet to live, she had to. Dr PI thought that it was not in Patricia's best interests to impose treatments on her.

54. Dr PI explained what they had done to ensure that Patricia was cared for appropriately in compliance with the order made by Moor J in October 2023. The long list of special adjustments made for Patricia showed the great level of care she was receiving in the hospital.

55. Patricia had been provided with a private side room on a ward with a view that she asked for. The lighting had been adjusted for her needs. There were special visiting hours for her family. Patricia was using her own blankets. The ICB had provided her with her own dongle so she could access the online resources she wanted to, she had a food card so she could buy her own food from the hospital M&S, and she had her own care staff commissioned by the ICB for 24-hours a day in hospital. She could even choose which staff cared for her or at least choose not to engage with the ones she did not like. With the added care and support from the psychiatrist and psychologist it was hard to imagine how Patricia could have been better cared for in these difficult and sad circumstances.

56. Dr W the psychiatrist at SEDU 1 explained that they try to work collaboratively with patients, something recommended by Dr Ibrahim, but that Patricia's approach was always to negotiate. A determination to negotiate every item on a menu was seen by other witnesses. Patricia would try to chop and change items on the meal plan and as she had been diagnosed with autism they made reasonable adjustments for this. Dr W said the issue with Patricia was that she was so eloquent and argued really well even with a BMI of 7. Other witnesses too spoke about her intelligence and persuasiveness. Certainly, I witnessed this in her emails to my clerk and in her relentless pursuit of a placement in SEDU 1 rather than any other SEDU.

57. Dr W said AN had a powerful grip on her. She did not want to recover from it, just live with it. Dr W said it was her life and consumed her. He described her as being invested in her AN. Dr W said he thought that Patricia could not move to a higher BMI because that was all she had ever known. Patricia was never willing to go to a BMI over 12.5. That was a decrease from the 2017 admission where it had been 15 or 16.

58. The SEDU 1 psychologist Dr B also spoke about the change in the past 18 months to two years, where Patricia's view of the BMI at which she could sustain a quality of life had gone down. Dr B said there was an increased rigidity in her approach and she had become more entrenched in her view of what was tolerable. Dr PI also spoke of Patricia's downward trajectory.

59. Dr W described what he understood to be the significance to Patricia of the issue of NG force feeding. She would lose control of what she was eating and that was intolerable to her. He thought it would be hard for her not to remove the feeding tubes but he

recognised that she did not want to die. He said Dr Ibrahim's proposal for her to get to full weight could take years.

60. Dr W said although a higher weight would lead to more engagement with treatment and more flexible thinking, the patient could get increasingly anxious about their weight to an extent that it might dominate their thinking.

61. Dr W said there was a pattern to Patricia's treatment, she would come into hospital put on some weight then leave and lose it. He said that AN had such a grip on her that she could not reach the goals she set for herself.

62. Dr B, the psychologist at SEDU 1, said he used a particular technique recommended by the Medical Emergencies in Eating Disorders ("MEED") guidelines, but would also use other therapies with his patients. He said that Patricia had had any number of the different therapies over the years. He had taken into account her PDA when working with her since her diagnosis in 2022.

63. Dr B explained some of the problems encountered by those who worked with Patricia. He echoed what Dr W said, Patricia spent her time changing the meal plans prepared for her. It was a constant negotiation with her trying to replace items on the meal plan with ones which would make her gain less weight. The psychologist conducted therapy with her but not under compulsion. Dr B, who knew Patricia very well, said he did not think that Dr Ibrahim's planned compulsion should continue to full weight restoration once the initial stabilisation of her weight had taken place.

<u>The January 2025 intervention</u>

64. Further evidence of the efforts made by the hospital and SEDU 1 to support Patricia was shown by the January 2025 specialist care package set up for her. This was intensive support tailored to Patricia and her needs. The aim was to get her medically stable enough to get her into SEDU 1.

65. Although Patricia remained at the hospital, SEDU 1 provided wraparound care for 14 hours a day. She was provided with the very specialist care a SEDU could provide but in an acute hospital setting. She had been allowed to choose her own package of care. She had 24 hours of support by an agency which I will call Provider 1 in line with the Transparency Order. The efforts the clinicians made are shown by the way SEDU 1 closed three beds to ensure the resources were there one to one every day. The January intervention had never been tried before.

66. Dr B said the aim of the plan was for Patricia to follow "constantly" a meal plan of 1,200 calories a day for about 10 to 12 weeks to become medically stable. She had sent many emails setting out how the meal plan should be written. They had listed a menu plan of foods which were acceptable to Patricia which had to be bought from M&S. This was agreed with her in December 2024.

67. Dr W described Patricia as her own worst enemy. She would agree to do something and then not do it. During this period, Patricia would not allow the staff inside her room and would not have the recommended blood tests. She was allowed special food and then did not want it and sent her father out to get different food from Tesco. That approach meant the specialists had no idea what her calorie intake was.

68. Dr B explained that the intensive support had started on 15th January 2025 and ended eight days later. It was terminated because she was unable to comply with the treatment plan. Dr B who said he wished it had gone on for longer said it did not work for a number of reasons: it was clear just how stuck Patricia was in a pattern and just how difficult it was for her to make even minimal adjustments. Patricia had missed two or three fairly hard lines in terms of what she needed to eat. It had shown that even with increased support she was not able to make those adjustments. The consensual treatment had failed.

69. Dr PI explained that Patricia had been involved in treatment plans before and that certain adjustments could be made but there were limits to the changes because they were trying to achieve medical stabilisation. I took from the evidence of the clinicians working with her that Patricia would question every item on her meal plan in an effort to reduce the calories.

Full weight restoration?

70. The applicants' original position based on Dr Ibrahim's evidence was that they should be aiming at full weight restoration. In his unfortunate first statement, he criticised Patricia's care. One sentence in particular jarred. He said she had been "let down by the medical system through a catalogue of errors, omissions and outright failures". He said that her treatment was not adapted to meet her individualised needs. These and other sweeping statements were made without having seen any of her medical records, having not spoken to anyone treating Patricia, let alone reading the 2023 court judgments and having only heard from Patricia and her desperate parents. It was inevitable that he received a one-sided inaccurate view of her treatment over many years. A rather more questioning approach might have helped the applicants.

71. Although I am critical in the way I have just outlined above about Dr Ibrahim's approach, I accepted his evidence about what was influencing Patricia. He had met Patricia only three times and had not got any records of a formal assessment he had made but what he said is what others had said. Patricia's decision-making was significantly influenced by her "overwhelming fear of improving her nutrition and rigid thinking, despite clear medical advice that this is essential to save her life". He said that although she expressed a strong will to live and had hopes for the future, her mental disorder prevented her from taking steps to achieve those goals. The anorexia distorted her ability to use or weigh information in a way that aligned with "her best interests and her values". He said her refusal of NG feeding was driven by her anorexia and was a cognitive impairment. The anorexic psychopathology was overriding her true decision-making capacity. Her ongoing malnutrition would maintain her illness and capacity impairment.

72. Dr Ibrahim said that severe anorexia had a profound impact on a person's feelings, beliefs and values which affected decision-making capacity. He said that whilst intellectually a person with anorexia would understand that refusing nutrition is life-threatening, "their priorities are driven by the fear of weight gain rather than their values before the illness". He said the illness-driven values do not originate from the person's authentic self. I would observe Patricia had had AN since the age of about ten, so it would be hard to separate her anorexic self from her "authentic self".

73. Dr Ibrahim said it was key that decision-making capacity and values could change with treatment, gaining weight and psychological support could improve cognitive functioning "reducing the illness's distortions". He recognised that compulsory treatment was controversial but it was shown to be lifesaving and could "in many cases, lead to improved outcomes or full remission".

74. In Dr Ibrahim's third statement, he had considered whether treatment in Patricia's case was "futile, overly burdensome to the patient or where there is no prospect of recovery" (*Airedale NHS Trust v Bland* [1993] AC 789). He questioned whether the anorexia was terminal. He said the effects of extreme malnutrition were reversible.

75. Dr Ibrahim said that Patricia had "never achieved full weight restoration with a structured, evidence-based treatment plan" that took into account her autism. The cognitive effects of malnutrition should be addressed before accepting her decision to refuse treatment as final. In the event his proposal of full weight restoration was not one that any hospital or SEDU was able to provide. He said further treatment would not be futile. Although there was no trauma-free option, giving her no treatment would lead to Patricia's death. Dr Ibrahim's opinion was that compulsory treatment was necessary.

76. Dr Ibrahim's evidence came down to the necessity for NG feeding as Patricia was not likely to increase her calorie intake voluntarily, to prevent her death. Her mental state and cognition were dependent on nutritional status and weight. There was a shift in mind set as nutritional values improved.

77. Dr Ibrahim pointed out that in 2022, she had consented to some NG feeding and was able to recognise that it was not as bad as she had thought. It had led to some cognitive shifts. These had not continued when the feeding stopped. He also said he had had patients who had recovered and who now were grateful for what they had been put through on their road to recovery.

78. I am not going to consider the three phases suggested by Dr Ibrahim as they have been overtaken by events in the sense that there is only one treatment in a SEDU possibly open to Patricia and that is a short term stay. What he did say was that a second phase of his plan was for Patricia to move to a SEDU where it would be "paramount" for compulsion to be available for the treatment to start. The plan for full weight restoration could take up to four years to be completed. This would then be followed by rehabilitation.

79. The ceilings of treatment he had suggested were explored by Ms Scott on behalf of the ICB. Dr Ibrahim said that a symptom of Patricia's AN was that she could be expected to fight the force feeding and be distressed and traumatised by what was happening. The degree of her resistance would depend on the medication she was given, the nature of the psychotherapy which should be started as soon as possible to get her to accept treatment and the way the clinicians talked to her.

80. Dr Ibrahim said restraint teams were capable of managing these situations. He said the risks to Patricia of force feeding were overstated when compared to the risk of not doing it, which was her death. He said that resistance to treatment could diminish very quickly but this was variable and would be as a result of cognitive changes to the brain. His evidence ran counter to that of those who had tried NG feeding to Patricia with restraint.

They said that her resistance continued and in the end, they did not consider it was in her best interests to continue with the restraint.

81. Dr Ibrahim recognised the treatment was burdensome in the sense that the eating disorder would compel Patricia to resist treatment but this would reduce if she is consistently offered treatment in the way recommended in the literature. He said the heaviest burden is on the team delivering the treatment and on Patricia's family.

82. Ms Scott for the ICB asked Dr Ibrahim about the 2023 evidence given by Professor Robinson that there was more than a 50% chance that the emotional/psychological harm caused to Patricia by NG feeding under restraint would be high. Dr Ibrahim accepted that forced treatment would be extremely distressing and traumatic and have a psychological impact on Patricia. He said that patients say later they were glad that he held the line when they had been fighting the treatment. They expressed their gratitude retrospectively. The psychological impact of this disease was reversible.

83. In response to Ms Roper KC's question about Professor Robinson's evidence in 2023, that force feeding would only give a less than 5% chance of a "significant and durable improvement in her health", Dr Ibrahim said from research he had done, 70% of patients had had a good outcome. He explained, rather counter-intuitively in my view, that the prospects of recovery did not depend on the severity or length of the illness.

84. I heard evidence from Professor S and had a statement from Dr S. Both of these specialists had treated Patricia before the 2023 orders for several months at their separate SEDUs. Their evidence was helpful in discovering how Patricia had been treated in the past.

85. Professor S who is a Consultant Psychiatrist is based at what we called SEDU 2. He had treated Patricia before the 2023 orders for about 18 months before she was discharged on 28th June 2019 by which time she had gained 4kg. She then weighed between 38kg and 40 kg, about twice what she weighs now.

86. During her time in SEDU 2, Patricia was treated under the MHA and they attempted force feeding with "safe holding techniques" provided by two or three people on one occasion. He described it as "very traumatic" for Patricia and it proved impossible. He said they would have needed a restraint team and it would have required sedation. The risks outweighed the benefits and they decided it was better to discharge Patricia.

87. When discharged, Patricia knew that if she lost more than 2kg she would be recalled to hospital. Within three weeks she was back in hospital because of her rapid weight loss.

88. Dr S's description of Patricia's behaviour during the admission to SEDU 2 echoed Dr W's description of her in the hospital in January 2025. She continually tried to reduce the calories in her meal plan by changing them. He described her as having "a strong urge to control any decisions that were being made about her treatment". She would be distressed until she could negotiate a lower calorific option. Patricia said that she "was not ready to let go of her anorexia, as it was safe, familiar and protected her from emotions". Doctor S exhibited a letter from Patricia's therapist where she described anorexia "as being woven into [Patricia]'s sense of self".

89. Dr S said there had been attempts since 2023 to refer her to SEDU 2 but when assessed she was not medically fit enough to be admitted, the risks were too high. He wrote to her and set out the goals she would need to reach to be considered for admission but she was not able to increase her calorie intake sufficiently.

90. In relation to NG feeding using restraint, Dr S said that SEDU 2 would only do this to save a life. His view was that you could not "opposition battle patients to recovery", whether they were admitted under the MHA or not. If Patricia was force fed, she would find it enormously distressing and she would fight back. Restraint would be very challenging. Staff would need a restraint team and psychiatric oversight.

91. Looking ahead, he could not see that Patricia would maintain a healthy weight in the medium to long term. What was more likely was her maintaining a BMI of 12 where she would need admission to hospital on a frequent basis and more force feeding. He anticipated a repeating pattern.

92. Dr S echoed the views of the other specialists who said that force feeding Patricia to a healthy weight was not in her best interests. If they did it to get her to a safer weight, it would save her life but that would leave her in the same position as she had been in before the Court's 2023 orders.

93. A month after Patricia had left SEDU 2, Professor S told the court that Patricia had entered his SEDU in the North of the UK. She was there from July 2019 to December 2020. The SEDU tried to get her to a full weight but failed for a number of different reasons including the fact that it was during the COVID-19 pandemic, there were staffing problems, there was a difficult cohort of patients in the unit, Patricia had particularly difficult characteristics and her parents on a number of occasions undermined the SEDU's care of their daughter. There were two attempts to put in place a restrictive care plan to get full recovery but they did not succeed.

94. Professor S said that the chances of successfully achieving full weight restoration, were less than 50% but that if Patricia were his patient he would take that chance in consultation with his colleagues. He said the challenges posed by Patricia were not atypical of patients with AN but with her past admissions to many "splendid units", it was even more daunting.

95. Just as Professor Robinson had given evidence to Moor J in 2023, he was called by Mr Patel KC having been instructed as an expert for the Official Solicitor in these proceedings. The Professor is a Consultant Psychiatrist working primarily with patients who had eating disorders for 40 years. He was the originator and principal author of the MEED guidelines which are the UK reference for risk assessment and urgent treatment of severe eating disorders.

96. Professor Robinson had met Patricia on 28th April 2025 at the hospital in her side room. In the hour he spent with her she was cooperative and friendly and spoke about a number of issues, including about the risk of her dying and her opposition to forced treatment. He found her to be positive about the future.

97. I had a sense from Professor Robinson that he regretted Moor J's decisions. Professor Robinson said that the court's prioritisation of her right to refuse treatment had led to the AN progressing. He explained that his view in 2023 was that some form of feeding

under restraint was needed to save her life and "should be instituted". He went on to say that nevertheless he understood the view of the court in 2023 particularly where the involuntary treatment had not worked in the past. He explained that some patients' resistance to weight gain "is rooted in the mental disorder and hence it is evidence that the patient lacks capacity because they are unable to weigh and use the evidence that weight gain is essential to improve health".

98. He went on to answer the question as to whether the plan and orders endorsed by Moor J had 'failed'. He said that it had preserved the right of Patricia to decide whether to accept forced treatment but had failed because the necessary treatment under restraint had not been given and the AN had progressed. Her life was much more at risk in 2025 than it had been in 2023. In terms of a significant difference between 2023 and 2025, the Professor said Patricia's body weight had dropped to 19kg from 23kg in March 2023. With a BMI of about 7.3 in April 2025, she was more at risk of death.

99. Professor Robinson had been asked to consider whether relying on Patricia to voluntarily increase her calorie intake would lead to her death. He said that death from malnutrition was inevitable and "could occur at any time". She was now much more at risk of sudden death.

100. The inability to accept that weight gain is essential for improved health can be the basis for detention and treatment under the MHA. He said this approach was taken quite frequently. Significantly he said that it can be successful and patients quite often agree that it was the right thing to do with them. This echoed evidence given by Dr Ibrahim.

101. Professor Robinson agreed with Dr Ibrahim that the backstop of compulsion was needed but that it was very risky and that Patricia would bite and scream. He said he had seen changes in anorexics' thinking and the best chance for Patricia was to go step by step. At some point though, Patricia would need to be on board with recovery. Where he departed from Dr Ibrahim's view was that he said short admissions and long admissions were equally effective.

102. In terms of his predictions for Patricia, he said she would fight any attempt to NG feed her. If it were his decision he would go with SEDU 1, with SEDU 3 as a backstop for urgent NG feeding. The MHA should be used to enable active treatment. A declaration would be useful. His approach would be to discuss each stage with Patricia, to see if she was ready to go to the next step. He said full recovery happens even with severely ill patients. She may need heavy sedation. He said the 2023 orders should be removed.

103. In the event full weight restoration is not being offered by any SEDU. The step by step approach suggested by Professor Robinson seems to be a better way of coping with the barriers erected by Patricia.

104. Patricia's parents gave evidence. They were in an awful situation. They were desperate for their daughter to live. I had heard evidence that on occasions they interfered with Patricia's treatment but they explained that they were being manipulated by Patricia on a regular basis. She would tell them she would stop eating if they did not do what she wanted. The degree of her control over them was shown by their evidence that when Patricia was in hospital, she told them what they could or could not buy for them to eat at home. I struggled to understand why they put up with this but it was because she

was threatening them with stopping eating or "downing tools" (one of the expressions she uses with the court and others to get her own way).

105. Patricia's family provided some recent texts she had sent them. On 28th February 2025, she texted her aunt: "I don't want to die" and most poignantly she was wishing for the sort of life any mid-twenties young woman would wish for, saying "I want to go on holiday. I want to walk up mountains. I want to swim in the sea. I want cuddles and kisses. I want to party and have fun". She then said she was "so so scared". I'm terrified. Please help me more. WE haven't got much time to play with"… "I'll never walk if we don't sort things now. It's March!! It's now 2 years since I walked". Then she says that a particular SEDU is her little glimmer of hope and she says "why can't I get good help? It's NOT fair. Why me?"

106. In her statement provided by the Official Solicitor she argued that her PDA prevented her from complying with anything forced upon her. She said she wanted to work with the specialists collaboratively and the application had been a shock to her and was pushing her to work to put on weight. This was a repeat of what she had told Moor J. She did not do what she said she was going to do in 2023 or in 2025. Unfortunately between the April and the May hearing, her intake of calories dropped from around 1100 or 1200 per day to what was thought to be under 1000.

107. I spoke to Patricia twice and a note of what she told me has been provided to the parties. I was very grateful to Mr Edwards, a lawyer in the Official Solicitor's office, who made a compendium of Patricia's emails and arranged them by subject topic. She has emailed my clerk fairly frequently, including on 14th July 2025. Her emails repeat her view that she needs her autonomy so that she can work productively with the team treating her. She also repeatedly says that she has come a long way since the 2023 order. What is striking is how wrong she is. She has not come a long way but is nearer to death then she was in 2023. Her BMI is lower and her health is considerably worse. The AN has even more control over her than it did in 2023. It is the AN that is preventing her from seeing what has happened to her since the orders were made.

108. The strength of her views are seen in today's email (14th July 2025). I have quoted from the email below (where I have left in various irrelevant errors).

109. Patricia said: "I want everyone to be aware that a sedu will ONLY work if the order remains in place. It is the ONLY way i can work with them and let them help me. I have to have the security of the order to not have to relive all the terror and trauma from my past"… "Without the order I will just fight"…"And i have learnt what approach works best. Pushing me into things will NEVER work. Taking away my autonomy will NEVER work. It goes against all guidance on what to do with someone with asd and a pda profile. Its within my nature and the traits of the PDA to fight back if not collaborated with and had my autonomy respected at every point along the way. I need you to see and hear this loud and clear. The previous court ruling wasnt just made lightly. It was made based on a huge huge sum of evidence and backing and all that is still very relevant now. Nothing has changed in that respect"…. . "Just having the treatment options isnt beneficial when the situation would then be that i wouldn't work with any team or treatment plan and would just fight and resist it all. Whatever happens from here, you arent being asked to decide my treatment, where i go, what i do, etc etc, or that is being asked is to review the order. The rest is for me and my treatment team to work out. And that can only be a productive process if the order remains and we all

work together, me actively still motivated and determined to change and progress. The removal of the order would only seize that process and make it impossible to work on finding a solution or way forward. Both long term and short term. I have come a long way the past few months and that has been from sheer determination. I have felt empowered as i have autonomously decided to keep going. I have decided to not give in. It has been lead by me. Thats the only way i have managed to achieve what i have".

110. In my remote meetings with her, Patricia spoke about the distress she would feel if she had to undergo NG feeding under compulsion, it would unethical and inhumane. She told me that during the 13th March 2025 hearing, she had suffered nose bleeds and she had bruised her head from headbanging.

111. Patricia said she wanted another chance at creating a collaborative plan with her involved at every point so that she could get to a SEDU. I observe that this was tried in January 2025, when she was involved in the planning of the intervention and it failed after eight days.

112. Patricia said over and over that that any plan to get her to increase her weight, would only work if there was no threat hanging over her. I noted however, that there was no threat hanging over her in January 2025 yet she could not follow the plan she had been instrumental in putting together, a plan which would have led to her putting on weight. She said her PDA needed to be at the forefront of her treatment and the nature of the diagnosis meant that if something was forced upon her she would fight it and reject every aspect of it. Again, a more objective view of her situation is that she rejects every effort to get her to increase her calories even with the orders in place.

113. She told the court that all she wanted was to be able to walk again, and manage her disorder to a point where she could have a life outside the hospital. I would point out that currently she is on a downward trajectory, with no hope of walking without a Zimmer frame or of a normal life unless a different approach is found.

114. In relation to the existing orders she said she wanted them to remain in place. Nothing had changed and force feeding would be just as traumatic now as it was then. She said forced NG feeding was not safe. Significantly she also said she was against the NG feeding because of the restraint and trauma and not because of the calories. I did not accept that was the true position. She is unable to eat the calories to keep her above starvation levels and when she underwent consensual NG tube feeding in 2022, she said it was not too bad although it only lasted a week.

115. Her wishes set out in the document prepared by the Official Solicitor was that she would enter SEDU 1 which does not use NG feeding under restraint.

SEDUs

116. In his evidence on 13th March 2025, Dr B said that Patricia's current calorie intake (of about 900 calories per day) would most likely lead to her death. He accepted that she did not want this. He said that it might well be worth trying some compulsion to stabilise her medical position so she could go to a SEDU but was fairly unequivocal in his reservations about persisting with compulsion after stabilisation. He said it should be left to the SEDU to decide later what they would do. He worried that without compulsion she would reenact her approach of the past two years.

117. Dr B had never known Patricia with a BMI of over 12.5 but said that already with a BMI of over 9 she was more flexible, had a better mood and was easier to engage on other subjects. From his experience with other patients, he could say that those tend to improve further as weight goes up. In terms of Patricia, she had been at such a low BMI for such a long time, that he was not sure if she could tolerate a BMI of 15 or so.

118. The question of referrals to SEDUs were dealt with by two witnesses in written form. Dr PE of the Norwich and Norfolk hospital explained that she had set up a Case Management Team who met weekly to co-ordinate Patricia's care. The team was set up partly in response to Patricia's request for a single point of contact. This had brought coherence to communication and ways of responding to Patricia's requests. Dr PE and others said, they were guided at all times by Moor J's orders and judgments of 2023.

119. Dr PE said that since the Moor J orders multiple referrals had been made to SEDUs but all were rejected with a number saying they were unable to meet Patricia's complex medical needs because of her low BMI. Only SEDU 3 offered Patricia a place in February 2025, but she rejected it. The offer was made on the basis that she would comply with the treatment or be discharged.

120. The most up-to-date information I received about SEDUs was in a report from Ms W of the local Provider Collaborative dated 10th June 2025. She said that they considered that SEDU 3 was the SEDU which suited Patricia the best. She set out why this was, one of the reasons was that there was an acute hospital nearby. It could offer NG feeding in a private area to respect the patient's dignity. The consultant from SEDU 3 had met Patricia and her parents and understood the family dynamics.

121. Ms W said they had referred Patricia to various SEDUs in November 2023 and none would consider her for admission. Moor J's ruling was one reason given for their approach as well as her extreme malnutrition. In October 2024, they re-referred her and again no units would consider Patricia although three gave her goals to achieve before they would assess her for admission.

122. Finally in March 2025, the local Provider Collaborative contacted a private unit in London, which said they would consider Patricia only if the 2023 decisions were lifted. The local Provider Collaborative also had "informal conversations" with various other providers and two said they would discuss a potential admission were the 2023 orders lifted.

123. In terms of a further round of referrals at this point, the PC was not going to do that because of Patricia's current condition and the "uncertainty over the outcome of the court proceedings". The PC had longstanding relationships with clinicians at SEDUs and these would be damaged by multiple referrals to units when they knew that that criteria for admission are not met by Patricia. Finally Ms W said that while the local Provider Collaborative would not rule out making further referrals to SEDUs, this was unlikely to be before the court made its decision about the 2023 order. They said if the court did discharge the 2023 order, then this "may" open up other SEDUs for Patricia.

The parties' positions on 20th June 2025

124. I was told that Patricia was now walking with the help of a Zimmer frame (although this was against medical advice) but her intake of calories remained very low at about

1000 per day and she was refusing to allow herself to be monitored. Her weight was 22.2 kilograms and her BMI about 9.

125. The parties invited me to consider their latest written submissions. There were two issues I was to consider and the parties took different positions in relation what my approach to them should be.

126. Whereas the applicants were not inviting the court to decide any issue but postpone the question to a time when a bed in a SEDU had become available, the respondents all agreed that I should decide on whether the legal test for revisiting the orders made in 2023 had been met.

127. Mr Lewis for the applicants contended that the only advantage of a decision now was the local Provider Collaborative may be in a position to identify a bed in an alternative SEDU but it was not clear whether it would do that. If the local Provider Collaborative, which sources beds at specialised units, indicated it would do that "speedily" then the family would support a decision being made. If that was not going to happen, they questioned the point or purpose of a pre-bed judgment. I noted that in further information provided to me in the email alongside the submissions that the local Provider Collaborative had not agreed to look for a bed in other SEDUs if I lifted the order.

128. The family set out the risks to Patricia of decisions being made now. Patricia would reduce her calories and return to the refeeding danger zone which would prevent a transfer to a SEDU. To avoid that risk the family asked the Official Solicitor to make a best interests decision not to tell Patricia about the judgment until a SEDU bed was available. Her right to life outweighed any advantage to her of being informed of the court's decision immediately. They accepted this would put Patricia's legal team in a difficult position but said that at least the court's best interests decision would be capable of being implemented. Understandably the Official Solicitor has not responded to the request from the applicants.

129. The hospital and the CPFT invited the Court to decide both issues. Ms Gollop KC for the hospital relied on three particular arguments, the more significant one was that Patricia has said repeatedly that she wants to know what her position is. Indeed on 2nd July 2025, I received another email from Patricia saying that she wanted a decision.

130. The hospital's second argument was that the information from the local Provider Collaborative suggested that without a decision on the second issue the problem of other SEDUs not assessing Patricia remained. This was due to the 2023 orders which prevented any forced treatment. If it were lifted then other SEDUs might become available including SEDU 3. The third point made by the hospital was that Patricia was "medically optimised" for transfer or discharge and no longer required to be in an acute hospital. The hospital recognised that there was a risk that Patricia would take on fewer calories if the 2023 order was lifted but there were risks whichever decision was taken.

131. CPFT's arguments echoed the ones relied on by the hospital. Patricia needed to know her position and the uncertainty was causing her distress. The second reason was that she was ready for discharge or transfer and SEDU 3, which was most likely to be able

to provide a bed for her, and indeed other SEDUs, would only have a bed for Patricia if the orders were discharged.

132. Furthermore, CPFT argued that both decisions should be taken at the same time. The decision on jurisdiction was linked with the decision on outcome. It was proportionate to consider the two issues together particularly where there had been much evidence and no further hearing was necessary. If both the decisions were taken together this would enable plans to be made in Patricia's best interests.

133. Ms Roper KC for CPFT pointed out too what would happen if the order was not discharged. The focus for Patricia would be on nursing homes and no further treatment. A palliative care situation in essence.

134. CPFT argued that if the court determined jurisdiction only, then that would not advance the case. If the court found it had jurisdiction but made no decision on the second issue, it would increase the "ongoing tension and frustration" while not providing for any future steps. Miss Roper pointed out that a decision that the court did not have jurisdiction would not conclude the proceedings as until Patricia's destination was resolved, the matter remained before the court and the court might be invited to revisit the decision that the court did not have jurisdiction.

135. Ms Roper recognised that there was a risk that Patricia would take in fewer calories if the court did revisit the 2023 orders but there was a risk that that could happen anyway. A decision on both issues had benefits which could be balanced against the risk, which a decision on jurisdiction alone did not.

136. Mr Patel KC for the Official Solicitor and Ms Scott for the ICB invited the court to decide the first issue only and postpone a decision about the second issue whilst waiting for further information about a bed in a SEDU, particularly in SEDU 3 before deciding whether to discharge the 2023 orders.

137. The ICB considered the effect on Patricia of the wait for the decisions the court was being asked to make. It described the effect as "extremely difficult" for her but in the balance was its concern that Patricia might stop eating if the orders were lifted. If she did that and there was no SEDU bed then she might become too unwell to access a SEDU and might be at risk of dying.

138. Another point made by the ICB was that if Patricia was discharged to a nursing home pending a bed becoming available at a SEDU and then being assessed for that bed, she may not be able to be admitted to the SEDU as she would no longer be in an acute hospital setting.

Discussion and Decision

139. I have given already a case management decision that I will consider the two issues raised. The first issue is whether I should revisit the orders made by Moor J in 2023.

140. At the time of the first two decisions made in May 2023, Patricia was on an upwards trajectory and was increasing her calorific intake. During the first May hearing she had promised the judge she would increase her intake. By the second May hearing, her

intake was higher than it had been. Moor J heard substantial evidence including from Professor Robinson, an independent expert and made the declarations and orders it did.

141. By October 2023 however, this improving position had stalled. Another complication was that Patricia had gone into hospital with an infection. It may have been C. difficile which Dr PI said had led to Patricia losing more weight. In any event the Court confirmed the May 2023 order and made it wider. Patricia should not be force fed with restraint nor was she to receive any medical treatment against her wishes. Moor J decided Patricia should have the autonomy to decide what she should eat and how. I accept that the Judge in 2023 recognised that Patricia was almost certainly past the point of accepting treatment.

142. Just over 18 months later, now in July 2025, despite all the efforts made to work consensually with Patricia, she is much more ill than she was in 2023. There is no doubt now that the hands-off approach, leaving it to Patricia to decide whether to increase her BMI, has not worked. At the beginning of these proceedings in March 2025, her BMI was thought to be around 7.3. This was considerably lower than in 2023. The witnesses were all agreed that if nothing changed she would die, and probably very soon.

143. With the court order of 2023, there was no other treatment that could be offered to Patricia, and this was why the hospital was going to discharge her to a care home. During the course of these proceedings, and I have no doubt that it was because of them, Patricia had improved somewhat her calorie intake and her BMI had increased to about 9 or so. She is still at risk of death.

144. Whereas in October 2023, there was still some hope that Patricia might voluntarily start gaining weight, there was no hope at all in March 2025. Despite this, I noted Patricia's will to live remains strong. She speaks about what she would like to do in her life, including travelling. She does not want to die and she has been repeatedly saying she wishes to go into SEDU 1, the SEDU that does not use feeding under restraint.

145. At the early hearings in 2025, Dr Ibrahim had produced what he said was an alternative approach which included full weight restoration. This proposal was not before the Judge in October 2023 and in March 2025 appeared to be new evidence. As it turned out, by 20th May 2025, this option was not available for this court.

146. In looking at whether there has been a change in circumstances, or other new evidence, what struck me was how wrong it was that a potential life-saving option, open to every other anorexic in the country was not available to Patricia. 18 months on, the orders were preventing Patricia from going into a SEDU. The orders in 2023 had been shown to have failed. Without a change to the orders, there was no doubt that Patricia would die.

147. The respondents' final positions in 2025 were probably best described as neutral about whether there had been a change or not or whether that should even be the test. Ms Gollop KC for the hospital was the least neutral of the respondents.

148. The hospital position, ably put forward by Ms Gollop on 20th May 2025 was that Moor J's reasoning and decisions were not wrong. He had made no error of law nor had he failed to take into account any factor relevant to best interests so that the best interests decision was wrong. Nevertheless, the Court had now heard evidence from a number

of clinicians and experts or quasi experts, and should now consider the application afresh.

149. The ICB argued at the hearing of 20th May 2025, that the Court should engage with the application to discharge on its merits because the time to dismiss it would have been at the first hearing. It was far too late now to summarily dismiss the application as suggested in the decision of Poole J in *An NHS Trust v AF & Anor* [2020] EWCOP 55. Ms Scott for the ICB contended powerfully that it was for the Court to determine whether it was in Patricia's best interests for the orders to be discharged.

150. Ms Scott argued that the Court should not make any declaration or order which might fetter the decision-making of the clinicians, such as declare that any particular treatment should be provided to Patricia. In her most powerful argument, Ms Scott contended that Patricia should be returned to the position that all anorexic patients are in, they have the opportunity to access all available treatments including forced treatment under the MHA, without any fetters imposed by the Court.

151. CPFT argued that although Moor J's decisions did not formally bind clinicians from detaining Patricia under the MHA, the order was intended by the Judge to ensure that she was not subject to further treatment she did not want including detention under the MHA. The only decision for the court was whether Moor J's order should be discharged.

152. Ms Roper KC for CPFT said there were two questions for the court, the first was whether it was open to the Court to re-open the previous decision of Moor J in 2023 and the second was, if so, should the previous orders be discharged. Ms Roper set out a detailed account of the evidence heard by Moor J. She considered the legal test and the case of *AF*. The decision made by Poole J was seven months after a decision had been made by Mostyn J. In the particular circumstances of *AF*, Poole J reopened the earlier decision made.

153. The second case relied on by Ms Roper was *Z v University Hospitals Plymouth NHS Trust (No. 2)* [2021] EWCA Civ 22 where on an application for permission to appeal, King LJ said at paragraph 31 that "the court will, if appropriate, review an earlier best interests determination. As Francis J put it in *Great Ormond Street Hospital v Yates (No. 2)* [2017] 4 WLR 131 at paragraph 11, such a reconsideration will be undertaken "on the grounds of compelling new evidence" but not on "partially informed or ill-informed opinion"".

154. On behalf of Patricia by her litigation friend, the Official Solicitor, Mr Patel KC supported the ICB argument that the time had passed for the Court to dismiss the application using its case-management powers on the basis there has been no material change in circumstance.

155. The Official Solicitor argued that in any event, Patricia's condition had deteriorated since 2023; Patricia continued to express a strong wish to receive treatment for her AN and the approach in 2023 that of respecting Patricia's autonomy had not worked. Where there was a presumption to preserve life, the Court should make a substantive determination. Leaving the orders in place had put an "impossible burden on her". Moor J's order required her to agree to treatment which her anorexia could not allow her to. Without a discharge of Moor J's orders, Patricia could not access SEDUs. On

balance the Official Solicitor considered that it was in Patricia's best interests to discharge the orders.

156. I did not accept the argument of the ICB and the Official Solicitor that the time to revisit an earlier decision had to be at an early case management stage of proceedings. In many cases, it might be, but in the current proceedings it would have been too early. In March 2025, I had evidence only from Dr Ibrahim in his first statement. His conclusions and advice were based on a partial account given to him by the applicants and not on Patricia's medical records nor on conversations with her treating clinicians. Dr Ibrahim did not know therefore of the many attempts that had been made to treat Patricia over about 15 years in a variety of ways including by force feeding her before the orders in 2023.

157. I see no reason why I could not dismiss the application now, several hearings on, despite having heard from a number of witnesses, although I found the decisions made in May and October 2023 were clearly the right decisions for Patricia at that time.

158. In this case, at this stage, I am in a position to determine whether the application should be rejected. I should out of respect to my colleague and considering the importance of finality, give effect to the earlier decision made by Moor J unless there is either a change of circumstance, new evidence which may be persuasive, or, as is the case here and as Poole J in *AF* put it succinctly "if the decision or circumstances that the new court is being asked to consider are not clearly covered by the earlier judgment".

159. The most significant circumstance that is not covered by the earlier judgments in May and October 2023, is the burden on Patricia of the decisions made then. What the court could not anticipate is how Patricia would react to the decision of the court. As the many witnesses explained it, her thinking is dominated by the AN. Her anorexic cognition has prevented her from understanding the link between living or even just being able to walk and the need to take on calories to give her the strength she needs. It is a complete block in her understanding caused either by AN or by her autism and PDA. She is a highly intelligent young woman yet she fails to accept the link between eating and living.

160. Leaving the orders in place had put an impossible burden on her. Moor J's order required her to agree to treatment which her anorexia would not allow her to. Without a discharge of Moor J's orders, Patricia cannot access a SEDU that might be willing to accept her, one that might save her life.

161. I am conscious that a decision to revisit the orders made in 2023, will cause Patricia a very great deal of distress but it is right in principle and in Patricia's best interests that I look at her situation and circumstances again, when the autonomy given to her by Moor J has laid an impossible burden on her.

162. In my view there are circumstances in this case which amount to factors which were not clearly covered by the orders made by Moor J in 2023.

163. Having determined that I have the power to revisit Moor J's decision in 2023, the next issue is whether Patricia's best interests require a continuation of the order made in 2023 or whether the evidence supports a change of approach set out in a new order.

164. The respondents invite me to take one of two approaches to the 2023 orders. The hospital and CPFT argue that the second issue needs to be decided at the same time as the first whilst the family, the Official Solicitor and the ICB argue that I should decide the principle of revisiting the orders only and adjourn the second to a time when there is a SEDU available to take Patricia. They are all concerned about the effect on Patricia of any decision I might take. There is only one SEDU, currently, SEDU 3, which might be prepared to consider Patricia for treatment if the 2023 orders were removed.

165. On balance I have decided to make both decisions at once. This is because my decision to revisit the orders made in 2023, will be very distressing to Patricia. If I adjourn the second issue, Patricia, who is extremely intelligent, will realise what is going on. She will work out the way the wind is blowing and that suspicion without any certainty will add to her distress. Added to that, Patricia has been waiting for four months now to find out the outcome of this application, the delay has caused her great upset too. I also consider that there is a chance if I deal with both issues at once, that other SEDUs may become available were I to lift the orders.

166. In 2025, it is undoubtedly the case that Patricia is much nearer to death than she was in 2023 and yet she does not want to die. It was her cognition caused by the AN in addition to her autism and PDA which have led to her refusal to take on the calories she needs to live. She said she wanted to be able to walk again and travel yet what was preventing her from doing this was her refusal to increase her BMI.

167. The professional witnesses I heard from were agreed that Patricia's opposition to compulsory treatment, was driven by her anorexia. I agreed with Mr Lewis when he said, echoing Dr Ibrahim's observation, that by "respecting [Patricia's] autonomy, the court [in 2023] had permitted her anorexia to call the shots".

168. The significant issue which I have had to grapple with is the effect on Patricia of any change in approach. I must consider Patricia's past and present wishes and feelings and the beliefs and values that would be likely to influence her decision if she had capacity. Patricia has had AN since the age of 10. She has never had values or beliefs which were not enmeshed with her AN. All she minds about is how to avoid putting on weight although she values her life and likes to imagine the life of travel she could have.

169. Patricia cannot have made it clearer that she does not want the orders to be lifted. She believes a lifting of them would lead to her being force fed. She says she is traumatised by the thought that this may occur again. She says she suffers from PTSD caused by past force feeding. She says it is torture. This is her longstanding view and she points out with some force that in the past force feeding did not work.

170. She has said that even the knowledge that there is a chance that the court may reconsider the orders made in 2023, has prevented her from sleeping, has led to her having nose bleeds, and hitting her head against a wall. She has become increasingly pressing in her emails to the parties and the court, trying to negotiate an alternative approach. She suggests that she should go to SEDU 1 where she knows she cannot be force fed. That unit, however, for good reason, has not offered her a place.

171. I am not being asked to consider what specific treatment she will receive in any SEDU and I agree that that question should be left to the clinicians treating her. My view is that Patricia should have access to the treatment or lack of treatment that any other

anorexic patient does. The court should not impose an order which would prevent her from having the treatment which may save her life when she wants to live. I hope that once she gets to a SEDU she will work to increase her BMI within a collaborative treatment plan which will take into account her autism. This will allow her to achieve the aims she has spoken about.

172. All sorts of treatments have been attempted before and there is not much optimism that Patricia can be saved. Any SEDU which can care for her, needs the flexibility which will be given by the removal of the orders.

173. As part of the decision I am to take into account the views of her family, who bring this application and anyone engaged in caring for Patricia. The family want her to live and also want her to have the life of any 25 year old. Their views are reflected in this application. They want the order to be lifted.

174. The views of the clinicians who know her best is that a plan for force feeding was unlikely to succeed. Patricia would fight any restraint and this could harm her. Dr PI, whose views I respect, and who knows Patricia very well, considers that force feeding is not in Patricia's best interests. The witnesses who have worked with her point to the many years of failure when Patricia has put on a little bit of weight in a specialised hospital setting before losing it in very short order when she leaves.

175. I have reminded myself that the January 2025 treatment plan was contributed to by Patricia and it was formulated with her PDA and autism in mind. She had special carers allocated to her and support from SEDU 1which led to them having to close three beds to accommodate their work with her. This lasted for eight days.

176. Although every treatment has been tried with Patricia, rather counterintuitively, I was told by the clinicians and the expert that patients with anorexia can be restored to health even when they are very resistant to increasing their BMI and weight and even when past attempts have failed.

177. The balance of harm versus benefit is nearly equal. On the one hand, if I lift the orders, Patricia may "down tools" and she may become even more ill than she is already. I am conscious that before 2023, there had been numerous attempts to treat Patricia including by NG feeding under restraint. None of it worked and the witnesses were clear that Patricia found restraint incredibly distressing.

178. I accepted the evidence that AN is part of who she is and Patricia will find it traumatising to lose control over her treatment, if she entered a SEDU and a treatment decision was made to NG feed her under restraint. I also accepted the evidence that AN is so much part of who Patricia is that she will not want to get rid of it and could never get to a weight where she is not hospitalised from time to time. At the same time, I bear in mind too that in 2022 she agreed to NG feeding when she had no alternative to that and said it was not as bad as she had anticipated. She now denies ever saying that.

179. The best that the court could hope for is that she gains weight a little, increases her BMI, so she does not spend her life in hospital or a SEDU, although the evidence from the past was that if she were treated and increased her weight, it might well reduce again when she leaves the facility.

180. On the positive side, I bear in mind that if I lift the orders, there is a chance a SEDU will take her, whether it is SEDU 3 or another, and although the past history of such admissions is not positive, she could turn a corner and put on weight. The clinicians were clear that this does happen, when a patient later thanks the clinician for forcing them to gain weight.

181. I have had to balance the factors set out above and consider Patricia's Article 3 right not to be treated inhumanely when she believes strongly that force feeding will breach her rights. I remind myself I am not being asked to make an order that she be force fed, but to lift the orders which would then allow SEDUs to decide what is the appropriate treatment for this young woman who wishes to live.

182. Having considered the balance of the imminent risk of death versus the harm which will be caused psychologically and emotionally by the lifting of the orders, the balance is in favour of trying to save her life. The removal of the orders will allow the clinicians to work out what is best for Patricia, without the restrictions that currently prevent this.

183. I lift the 2023 orders. This is in Patricia's best interests.