

RIGHT TO RESPECT FOR YOUR PRIVATE AND FAMILY LIFE

advocacy
focus

Advocacy Awareness Week #AAW22

Article 8 protects your right to respect for your private life, your family life, your home and your correspondence (letters, telephone calls and emails, for example).

How might this right be relevant to you?

Some examples when your right to private and family life, home and correspondence might be at risk include:

- If your wellbeing (mental or physical health) is at risk.
- If you are not being involved in decisions over your own body and life, including your care or treatment.
- When a public authority is interfering with your right to determine your sexual orientation, your lifestyle, and the way you look and dress.
- When ongoing contact with family members or relationships with others has been stopped or restricted.
- If there is a big intrusion into your private information or data.
- If a public official discloses your confidential information without your consent or without this being demanded by a court of law.

Here are some examples on how your right to private and family life, home and correspondence could be restricted by a public official.



Lawful: There must be a law which allows public officials to take that action or decision.



Legitimate: There is a good reason (for example public safety or protecting the rights of other people, including your family members or staff).



Proportionate: They have thought about other things they could do, but there is no other way to protect you or other people. It must be the least restrictive option.

TYSON'S STORY

Advocacy Awareness Week #AAW22

*All names have been changed to protect the identities of the people we support



What was the person's situation before working with Advocacy Focus?

Tyson had an acquired brain injury and resided in a care home. Tyson regularly asked to see his wife who was in a different care home and who was unable to visit by herself. Tyson was on a Deprivation of Liberty Safeguards (DOLS) and an Advocate was appointed Relevant Person Representative (RPR) to support him.

What did you do to help the person?

The advocate contacted the DOLS team, specifically, the Best Interest Assessor (BIA) appointed to the case, to raise concerns that the unwanted separation and lack of contact was a breach of Article 8 of the Human Rights Act and advised that the situation was impacting adversely on Tyson's "wellbeing" – specifically his mental health and emotional wellbeing. His "domestic, family and personal domains" were neglected.

What was the outcome?

A new condition was placed on the DOLS to outline that the managing authority were to facilitate regular contact for Tyson with his wife, and visits began.

What was the outcome?

Tyson presented as happy that he was able to see his wife. When Tyson asked to see his wife (as he did regularly) staff could now remind him of when he would next be seeing her. Tyson had someone to speak on his behalf and to link up his wishes with his legal rights.

Areas of wellbeing addressed as per the Care Act:

- physical and mental health and emotional wellbeing
- control by the individual over their day-to-day life
- social wellbeing
- domestic, family and personal domains

TYSON'S STORY

Advocacy Awareness Week #AAW22

advocacy
focus

Why was advocacy support so effective?

The advocate made several calls to different professionals initially, and highlighted the matter as a tragic personal position for Tyson to be in, having an adverse effect on several areas of wellbeing. Also in legal terms, the Advocate highlighted it was a breach of human rights. The advocate looked into all options for addressing the issue – as a condition was put on the DOLS for contact to be facilitated, the RPR can now check on a monthly basis that the contact is taking place and address the issue further on behalf of Tyson if needed.

There were initially no conditions on the DOLS about contact with family. However, now that contact with his wife is outlined on the DOLS, if the contact arrangements are neglected in the future, another option would be to approach the issue in terms of the conditions of the DOLS – as a S21A application. This would allow the court to consider whether arrangements are least restrictive or whether the conditions are being met adequately. If this is needed in the future for Tyson, it would be a non means tested legal aid funded court application.

Do you need an advocate?

We provide advocacy and related services across Lancashire, Trafford, and St Helens, you can view which areas our Advocates cover on our website.

