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Your Ref:

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My Ref: LTH35623/OS

Mrs Lynne Knapman
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GRO-A

and

GRO-A

The President of the Family Division has today handed down her judgment in cases FD02P01866 & 7 which concern the provision of treatment to two young people **GRO-A** **GRO-A** and a 16 year old girl known as **GRO-A** suffering from variant CJD. The President has concluded that the provision of particular treatment is in the best interests of both **GRO-A** and **GRO-A** and has made declarations to that effect; in the case of **GRO-A** who is a minor, she has also directed that such treatment should take place.

Both **GRO-A** and **GRO-A** have been under the care of a consultant who is willing to give the treatment. The treatment requires surgery to be undertaken and thus requires hospital facilities. The President's judgment was initially provided to the parties in private on 11 December 2002. The NHS Trust, where **GRO-A** and **GRO-A**'s consultant practices and who were the 2nd Defendants in the best interests applications, met through its Clinical Governance Committee on 11 December following receipt of the judgment and decided that it was not willing to provide the facilities to enable the surgery and other treatment to be carried out.

The parents of these two young people and the Official Solicitor, who is the litigation friend to **GRO-A** and **GRO-A** may wish to challenge the Trust's decision by way of judicial review. The President of the Family Division indicated in court today that any challenge to the decision would need to be made by way of judicial review and could not properly be considered by her in the existing proceedings.

However, the Department of Health has indicated that it will use its best efforts to try to find an alternative NHS trust which would be willing to provide the facilities for the treatment to proceed. If another hospital is found, then clearly there will be no need to seek judicial review of the existing Trust's decision. If, however, the Department of

Health's efforts are unsuccessful, then judicial review proceedings may prove necessary.

The Department of Health will be reporting on its progress to the parties by 10 a.m. Friday 20 December. If its efforts have been, or appear likely to be, unsuccessful, the parents and the Official Solicitor are likely to be seeking judicial review of the Trust's decision of 11 December. Without treatment [GRO-A] and [GRO-A] have a very limited life expectancy and their condition deteriorates daily. In view of this, if a judicial review claim is issued on 20 December, the claimants may well be anxious to have the application considered by a judge of the Administrative Court on that day so that directions could be given.

We are very anxious not to incur costs or to occupy the Court's time unnecessarily by issuing proceedings in circumstances where the Department of Health's efforts may result in a practical resolution for [GRO-A] and [GRO-A] in the course of this week. However, we are equally anxious to give you as much notice as possible of this matter, in the event that it becomes necessary to issue proceedings in the Administrative Court and appear before a Judge later this week.

Please do not hesitate to contact me if you have any queries.

I am copying this letter to David Body at Irwin Mitchell & Co (the claimants' solicitors), Alison Brockhurst at Samuel Phillips & Co (solicitors for the NHS Trust) and Anita James (Department of Health).

Laurence Oates

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