

This created a grave ethical dilemma. In what circumstances is it right to withdraw active treatment and allow a patient (a baby) to die? My opinion was that only very robust and secure reasons, agreed by more than one practitioner, would suffice for such a grave and *irreversible* decision. It was my judgement that these criteria were not fulfilled at this stage. In general, I believe that these difficult decisions should be taken by those caring for the baby and the parents together.

## 6 AFTER THE SECOND CONFERENCE – A CHOICE

### Paragraph 40

*'Mr Wisheart, Dr Martin and a nurse called Joyce spoke to us. ....We were offered two alternatives..... I got quite angry with Mr Wisheart since he was now saying that it was possible to stop treatment whereas, before, he had seemed determined to go on to the bitter end. The only thing that appeared to have changed was that they now thought the paraplegia was almost certainly permanent.'*

### Comment

Mr Mallone describes this conference taking place approximately two weeks after the previous one, and that subsequently he was offered a choice of proceeding to another operation or not. Not to do so would mean that Josie probably would not be able to come off the ventilator, and, therefore, would die.

There were two reasons for appearing to offer a different view now, compared to earlier. The first is referred to by Mr Mallone when he says that by now 'the paraplegia was almost certainly permanent'. There had been some doubt about that two weeks earlier. Secondly, in contrast to simply continuing the same modalities of treatment, which had been the issue two weeks earlier, the situation now was that another major operative intervention needed to be considered if Josie were to survive. This would have required new consent from Josie's parents.

I believed therefore that it was correct to face the decision about active treatment at this point in Josie's course. Two weeks earlier the situation had been much less clear and no new modality of treatment had been under consideration; therefore I had not regarded it as appropriate to consider this issue then.

## 7 DECIDING

### Paragraph 41

- (1) *'After over a month of looking on, feeling as if we had no say in Josie's treatment, we had been presented with a huge decision: the choice between, on the one hand, letting our daughter die and, on the other, demanding the continuation of the increasingly painful and apparently futile fight for her survival. Mr Wisheart had stopped giving us instructions masquerading as advice and seemingly abdicated all responsibility for planning Josie's care.'*
- (2) *'I now know that deaths at Units like Bristol are only counted as statistically significant if they occur within 30 days of an operation, and, in my most cynical moments, I wonder how much of a coincidence it was that the point at which Mr Wisheart deferred to us for the first time came immediately after this watershed. For me, it is a travesty that Josie, as far as Mr Wisheart's record is concerned, a success.'*

### Comment

- (1) There had been two different view points, and a very difficult situation both for Josie's parents and those who were caring for her. Quotation (1) is written from one of these positions, and I believe that it is both incorrect and unfair.

As explained in Item 6 above, the situation had now changed. I am at a loss to understand why the open discussion of a choice should be described as, 'abdicating all responsibility'. My understanding had been that this is the very discussion which Mr Mallone had wished to take place. In his view it was wrong not to have had the discussion sooner, and it also was wrong to have it now. I believe that I would have been in the wrong not to have had the discussion at this point. Having such a