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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

OFFICE OF CARE AND PROTECTION

FAMILY DIVISION

2014 No. 4

BETWEEN:

A HEALTH AND SOCIAL CARE TRUST

Plaintiff;

-and-

MR X

-and-

THE OFFICIAL SOLICITOR

Defendants;

-and-

MS Y

Notice Party.

O'HARA J

Introduction

[1] In March 2014 the Supreme Court gave its landmark decision in *Surrey County Council v P and Others: Cheshire West and Chester Council v P and Another* [2014] AC 896 ("*Cheshire West*"). The central issue in that case was summarised as follows by Lady Hale at paragraph [1] of her judgment:

> "This case is about the criteria for judging whether the living arrangements made for a mentally incapacitated person amount to a deprivation of liberty. If they do, then the deprivation has to be authorised, either by a court or by the procedures known as the deprivation of liberty safeguards, set out in the Mental Capacity Act 2005 ... . If they do not, no independent check is made on whether those arrangements are in the best interests of the mentally incapacitated person, although of course the health or social care bodies who make the arrangements do so in the hope and belief that they are the best which can practicably be devised. It is no criticism of them if the safeguards are required. It is merely a recognition that human rights are for everyone, including the most disabled members of our community, and that those rights include the same right to liberty as has everyone else."

[2] The present application by the plaintiff Trust preceded the decision of the Supreme Court and arose because significant issues were already being raised about the limits of the guardianship provisions in the Mental Health NI Order 1986 ("the 1986 Order"). To a considerable extent the issues which had emerged have been clarified by the *Cheshire West* decision. The Trust's application in relation to Mr X, a man who lacked legal capacity, raised important issues because there are likely to be hundreds of individuals in similar circumstances. Since the case was heard Mr X has died but it is still appropriate to give this judgment to resolve the issues which were raised and also because I was invited to give guidance on how similar cases might be dealt with in future.

[3] The judgment below is divided as follows:

(a) Summary of the *Cheshire West* decision.

(b) Circumstances of Mr X's case.

(c) Submissions received in relation to Mr X.

(d) Discussion and conclusions reached on Mr X's case and the form of the appropriate order.

(e) Guidance for the future.

[4] I received oral submissions from the following:

(i) The plaintiff Trust which was represented by Ms Moira Smyth QC.

(ii) The interests of Mr X who did not have legal capacity and who was represented by the Official Solicitor on whose behalf Mr Brett Lockhart QC appeared with Mr Michael Bready.

(iii) The notice party Ms Y, a sister of Mr X, did not appear and was not represented but her views were made known to me by the Trust and the Official Solicitor.

(iv) The Attorney General Mr John Larkin QC.

(v) The Mental Health Review Tribunal represented by Mr Aidan Sands (with earlier written observations from its then President Mr Fraser Elliott QC).

(vi) The Northern Ireland Human Rights Commission represented by Mr Michael Potter.

In addition I received written submissions from the Health and Social Care Board, the RQIA, Law Centre NI and the Department of Health. I am grateful to all of the above for their valuable contributions.

(a) Summary of the *Cheshire West* decision

[5] Two separate cases were heard together by the Supreme Court. The first, from Surrey, involved two sisters who were in their teens when the case started. They had learning disabilities and needed to be protected. One of them, P, lived with her foster mother who she was devoted to and who provided her with intensive support. P had never tried to leave the home but had she done so the foster mother would have restrained her. Her sister, Q, had been with a separate foster carer but her behaviour was so challenging that she had to be moved to a residential placement within which, at times she required physical restraint, tranquilising medication and continuous supervision.

[6] In the Court of Protection it was concluded that their respective living arrangements were in their best interests but did not amount to a deprivation of liberty. The Court of Appeal agreed with that decision. Emphasis was placed on the relative normality of their lives compared to the ill-treatment and neglect which they had suffered in their birth home. It was also noted that they were significantly more fulfilled in their current environment.

[7] The second case involved a man in his late thirties with cerebral palsy and Downs Syndrome who required 24 hour care. He had lived with his mother but she could no longer look after him as her health was deteriorating. The Court of Protection approved him living in accommodation provided in Cheshire by the local authority. Within that setting he could not go anywhere or do anything without the

support and assistance of staff. They took him to a day centre four days per week as well as to a hydrotherapy pool and to see his mother, among other places, but they also needed to intervene to cope with various challenging behaviours.

[8] In the Court of Protection it was held that this regime amounted to him being deprived of his liberty but that it was in his best interests that this should continue. The Court of Appeal substituted for this a declaration that these arrangements did not constitute a deprivation of liberty. Its approach was that this life amounted to relative normality for P when compared to the life of another person of the same age and characteristics, including his disability.

[9] The Supreme Court rejected the approach of the Court of Appeal in both cases and held that the circumstances of all three individuals were such that they had been deprived of their liberty. The court was not critical of the care provided to any of the three nor did it suggest that their best interests were not being met. Rather it distinguished between their best interests being met and their liberty being denied which, it held, were different concepts. At paragraph [34] of her judgment Lady Hale said:

> "People who lack the capacity to make (or implement) their own decisions about where to live may justifiably be deprived of their liberty in their own best interests. They may well be a good deal happier and better looked after if they are. But that does not mean that they have not been deprived of their liberty. We should not confuse the question of the quality of the arrangements which have been made with the question of whether these arrangements constitute a deprivation of liberty."

[10] At paragraph [35] Lady Hale continued:

> "…it is quite clear that a person may be deprived of his liberty without knowing it. An unconscious or sleeping person may not know that he has been locked in a cell, but he has still been deprived of his liberty. A mentally disordered person who has been kept in a cupboard under the stairs (a not uncommon occurrence in days gone by) may not appreciate that there is any alternative way to live, but he has still been deprived of his liberty. We do not have any difficulty in recognising these situations as a deprivation of liberty. We should not let the comparative benevolence of the living arrangements with which we are concerned blind us to their

> essential character if indeed that constitutes a deprivation of liberty."

[11] The critical question was analysed as follows at paragraph [46] of the judgment of Lady Hale with reference to the rights of people with disabilities under the UN Convention of the Rights of Persons with Disabilities. She stated:

> "Those rights include the right to physical liberty, which is guaranteed by Article 5 of the European Convention. This is not a right to do or to go where one pleases. It is a more focussed right, not to be deprived of that physical liberty. But, as it seems to me, what it means to be deprived of liberty must be the same for everyone, whether or not they have physical or mental disabilities. If it would be a deprivation of my liberty to be obliged to live in a particular place, subject to constant monitoring and control, only allowed out with close supervision, and unable to move away without permission even if such an opportunity became available, then it must also be a deprivation of the liberty of a disabled person. The fact that my living arrangements are comfortable, and indeed make my life as enjoyable as it could possibly be, should make no difference. A gilded cage is still a cage."

(b) Circumstances of Mr X's case

[12] Mr X was in his mid-60s when his case was referred to this court. For more than 30 years he had been involved with mental health services. Initially that was due to problems relating to alcohol dependence. He then developed epilepsy and suffered a traumatic brain injury as the result of a fall downstairs. After spending ten years in a psychiatric hospital in the Republic of Ireland he was referred to one in Northern Ireland, at the instigation of his sister, in order to be closer to his family home. Over the next ten years he received treatment in a variety of units with his condition deteriorating as evidenced by disturbed and challenging behaviours, paranoid delusions and a progressive decline in cognitive function. He caused injury to staff and fellow residents through physical aggression.

[13] A psychiatric report confirmed that he was quite unable to appreciate his circumstances and was therefore unable to make any decision relating to his care needs. While this was to be kept under review, it was highly unlikely that any future improvement would be achieved. The psychiatrist's opinion was that it was not necessary for Mr X to be detained in a hospital because he was receiving appropriate care and treatment in a care home which was the least restrictive environment possible.

[14] However, the exit doors of the care home were secured at all times for Mr X's protection and the safety of others. He had freedom of movement within the home but not beyond it. Activities were provided for him to join in such as planned trips, visits to an "open unit" within the same home and access to the secure garden area. During almost all of these activities he was escorted. The detailed justification for these restrictions was set out in the psychiatric report. They included his history of wandering and falling, his history of physical aggression and the risk of him being injured if those who he attacked retaliated.

[15] His sister, Ms Y, reported that she supported her brother remaining in the care home. She made it clear, quite understandably, that she just was not capable of meeting his needs or managing his aggression. Her views were relayed to the court by the psychiatrist and by a social worker as well as through the Official Solicitor in her report.

[16] It was agreed by all parties that Mr X suffered from a mental illness within the meaning of Article 3 of the 1986 Order. The Trust therefore applied for an order for guardianship which is provided for at Article 18 of the Order. This is an order which can be made provided that a person is suffering from a mental illness which warrants his reception into guardianship and it is necessary in the interests of his welfare that he is so received – Article 18(2).

[17] The effect of guardianship is set out at Article 22 and includes "the power to require the patient to reside at a place specified …" by the guardian and "the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training". The initial order can be made for six months and renewed for six months. Thereafter it can be renewed for periods of one year at a time. In addition to this, Article 29(2) provides that where a patient who is subject to guardianship absents himself without the leave of his guardian from the place at which he is required to reside, he may be taken into custody and returned to that place by any constable or approved social worker or by any person authorised in writing by the guardian.

[18] In Mr X's case the guardianship order was made and then renewed without challenge. However the issue of deprivation of liberty was emerging as one of principle and difficulty in a series of decisions which will be referred to below even before the Supreme Court decision in *Cheshire West*. In England and Wales the Mental Capacity Act 2005, as amended, provided in Schedule A1 the statutory authority for the detention of incapable patients. There is no direct Northern Ireland equivalent even now because the Mental Capacity Act (Northern Ireland) 2016 has not yet been commenced.

[19] The questions which arose therefore in Mr X's case before this court were:

(i) Was Mr X being deprived of his liberty within the care home?

(ii) Could the provisions of Article 22 of the 1986 Order be interpreted as a power to detain?

(iii) If not, what was the form of the order which it would be appropriate for the court to make?

(c) Submissions received in relation to Mr X

[20] The Trust applied for an order permitting it to maintain Mr X in residence at an identified care home and for an order permitting it to supervise, guide and assist him in his daily living. That application included a psychiatric report, a social work report, an occupational therapy report and a care plan. A subsequent report from the Official Solicitor appointed to represent Mr X agreed with the Trust plan save that it sought more regular trips for him outside the care home. When I received the plaintiff Trust's application in this case I issued an invitation to make submissions, given the significance of the application and the invitation from the Trust to give guidance. In particular I referred to guidance issued on foot of *Cheshire West* by Sir James Munby, the then President of the Court of Protection in England and Wales on 7 August 2014 in the case of *Re X* [2014] EWCOP 25.

[21] I invited submissions in particular on the following four issues:

(i) Do you agree that even if a person has been received into guardianship under the Mental Health Order, a judge has to make a declaration under the inherent jurisdiction of the High Court in order to give a care home (or any other institution or individual) the legal authority to detain that person?

(ii) Are the guidelines suggested by Sir James Munby in *Re X* appropriate for Northern Ireland?

(iii) If not, in what way should the guidelines be amended or adapted in this jurisdiction?

(iv) Is there any overlap between the periodic independent checks envisaged by the Supreme Court and the role of the Mental Health Review Tribunal?

[22] Having received those submissions I issued a further invitation to make supplementary submissions. That invitation reflected the fact that, with the exception of the Attorney General who took a different approach, the responses were along similar lines. It was broadly agreed that:

- Even if a person is received into guardianship under the 1986 Order, a judge has to make an order or declaration allowing deprivation of liberty if such exists.
- With some adaptations the guidelines set out by Sir James Munby in *Re X* can be adopted in this jurisdiction.
- It would be helpful to have a practice direction to set out the way in which applications would be made.
- It should not always be necessary to have oral hearings.
- If an order permitting the deprivation of liberty is made there should be an annual review of it or an earlier review if required.
- While the role of the Mental Health Review Tribunal is relevant and significant, it is not possible to assign or delegate the inherent jurisdiction to a statutory body which has not been given that role.
- The issues raised in *Cheshire West* and in this case highlight the urgency of the Assembly passing new legislation for Northern Ireland as soon as possible.

[23] The Attorney General's submission included the proposition that the guardianship provisions in the 1986 Order can and should be interpreted as a statutory basis for the authorisation and subsequent review of deprivations of liberty which would comply with Article 5 of the European Convention. It is appropriate to deal with that contention first since, if it is correct, it makes the current proceedings in relation to Mr X and any other similar proceedings in relation to others unnecessary.

[24] The gist of the Attorney General's submission is that the exercise of the court's inherent jurisdiction, which the Trust seeks to invoke, is not permissible because a declaration cannot give authority for something to be done but can only set out whatever authority/duty/right already exists. If none of them already exists, they cannot be created by the inherent jurisdiction of the High Court. After a detailed analysis of the court's powers under the common law doctrine of necessity, he concluded (at paragraphs [19] and [20] of his submission) by suggesting that the court cannot authorise detention but can in the alternative pronounce on whether any particular deprivation of liberty is lawful. This led the Attorney General to submit that relief can be granted but not on the basis originally sought by the Trust i.e that it be permitted to maintain Mr X in residence in the specified care home and that it permitted to supervise, guide and assist him in his daily living.

[25] The Attorney General further submitted that the provisions of the 1986 Order can and should be read so as to provide a statutory basis for the proposed deprivation of liberty in compliance with Article 5 ECHR. This is to be done by reference to the court's duty under Section 3 of the Human Rights Act 1998 which provides that:

> "So far as it is possible to do so, primary legislation and subordinate legislation must be read and given

> effect in a way which is incompatible with the Convention rights."

His submission was that guardianship under Article 22 requires Mr X to reside at the care home and necessity would oblige the Trust to restrain him if he sought to leave. To the extent that this amounts to deprivation of liberty it is justified because guardianship only arises under Article 18(2) if it necessary in the interests of the patient. On this approach the various procedural requirements within the 1986 Order protect the detention from being regarded as arbitrary. Furthermore, the power under Article 77 of the 1986 Order to discharge a patient from guardianship, which places the burden of proof on the applicant, would have to be read in reverse.

[26] In her compelling reply to this submission, Ms Smyth QC for the Trust challenged the proposed interpretation of the 1986 Order on the following basis:

- The 1986 Order makes specific provision for the detention of patients in hospitals. It makes no equivalent provision for the detention of patients under guardianship.
- Reading the statute as suggested by the Attorney General would increase the interference with Article 5 rights of patients rather than protect those rights and would therefore go against the grain of the legislation and of the Human Rights Act itself.
- In *Re J McA's Application* [2014] NICA 37 the Court of Appeal emphasised that a guardianship order does not provide any legal power to impose restrictions beyond those specified in the legislation.
- Department of Health Guidance has consistently acknowledged that guardianship does not confer powers to compel the admission of an unwilling person into residential care. In Mr X's case the Mental Health Review Tribunal had raised this issue of its own volition in the course of a statutory review of the guardianship order. It did not consider that it had the power to sanction a deprivation of liberty under the guise of guardianship.

[27] Ms Smyth also took issue with the Attorney General's analysis of the inherent jurisdiction of the court, relying in particular on judgments referring to it as "the great safety net" and its protective jurisdiction in relation to vulnerable adults.

[28] Her submission and position were supported strongly by all of the other parties and interveners with no real ground of substance between them. Particular emphasis was placed in those submissions on the rights of people under disability, the obligation to protect those rights and the consistent position and guidance of statutory authorities in Northern Ireland about the limits of guardianship.

(d) Discussion and conclusions reached on Mr X's case and the form of the appropriate order

[29] In *J McA's Application* [2013] NIQB 77, Treacy J considered a case in which an adult male was living in what was in effect supported living under guardianship. On his behalf a challenge was brought to the Trust's effort to limit his freedom of movement and his activities. In particular he asserted his right to leave his address at any time of his choosing, unaccompanied. (The Trust had imposed restrictions so that, for example, he was allowed to leave his home unsupervised but only on a set number of occasions each week.) The judge relied on the subsequently overturned Court of Appeal decisions in *Cheshire West* and held that the Trust had acted within its powers in imposing these restrictions. Notwithstanding that approach, the judge said the following at paragraph [27]:

> "It is clear that there is no authority under guardianship for the patient to be detained or deprived of his liberty. Moreover, Parliament is presumed not to enact legislation which interferes with the liberty of the subject without making it clear that this was its intention. The intention of Parliament in particularising the powers of guardians was not to restrict the liberty of persons or vulnerable persons with impaired intellectual abilities, but rather to create a flexible vehicle which could be applied appropriately to maximize the freedoms of such individuals."

[30] An appeal against that decision was heard by the Court of Appeal in May 2014 after the Supreme Court decision. That led the Lord Chief Justice to state the following in the course of the short judgment of the Court of Appeal - [2014] NICA 37:

> "[7] It is unnecessary for us to set out the facts or reasoning in that decision (*Cheshire West*). It is, however, now accepted by the Trust that the guardianship order did not provide any mechanism for the imposition of any restriction on the entitlement of the appellant to leave the home at which he was residing for incidental social or other purposes. That did not, however, prevent the appellant entering into agreed care plan arrangements designed to assist him in achieving independent living to the greatest extent possible.
>
> [8] In respect of any arrangements concerning the entitlement of the appellant to leave his place of

> residence for incidental social purposes the learned trial judge correctly recognised that the guardianship arrangement was based upon consensus and cooperation. We wish to make it clear that such an order does not provide any legal power to impose restrictions on such activities.
>
> [9] Mr Potter on behalf of the appellant in this case recognised that this left a lacuna in the law. That gap had been filled by Schedule 7 of the Mental Health Act 2007 in England and Wales which introduced deprivation of liberty legislation into the Mental Capacity Act 2005 providing a mechanism for the lawful restriction on or deprivation of liberty of a person such as the appellant. It is clear that urgent consideration should now be given to the implementation of similar legislation in this jurisdiction."

[31] The Attorney General submitted, correctly, that in *J McA* neither the High Court nor the Court of Appeal was invited to interpret the 1986 Order by reference to Section 3 of the Human Rights Act. He referred to a later judgment of Treacy J in *HM* [2014] NIQB 43 as illustrating the way which the Human Rights Act can be used to interpret the 1986 Order in a manner which was not originally envisaged. Again that submission is correct but on that occasion the Convention was used to extend rather than narrow the rights of the person subject to guardianship.

[32] Put simply, there is no authority for reading the guardianship provisions in the manner proposed by the Attorney General. It is more than regrettable that there is still a significant gap in our legislation but that is not a reason to interpret it in the manner suggested. Both Treacy J and the Court of Appeal were rightly anxious to emphasise that guardianship cannot be used to deprive a person of his liberty. The contrast with the explicit statutory power to detain patients in hospital under the Order is stark and in my opinion insurmountable. In the circumstances I reject the Attorney General's bold submission on guardianship and accept the submissions of Ms Smyth, supported by all of the other parties.

[33] On the question of inherent jurisdiction, the Attorney General's submission appeared to focus on the precise form of the order which the court can make. In *HL v UK* [2004] ECHR 471 the European Court of Human Rights considered the case of a man with significant limitations and difficulties who lacked the capacity to consent or object to medical treatment. After 30 years in hospital he was discharged to paid carers on a trial basis. This worked acceptably well for some years but after an incident in 1997 he was sedated and admitted to hospital as an "informal patient". He challenged that decision by way of judicial review. The House of Lords upheld the admission on the basis of the doctrine of necessity and held that he not been

detained in hospital. That approach was rejected by the European Court. It contrasted the safeguards on compulsory admission to hospital found in mental health legislation with the arbitrary nature of applications based on necessity. It also found striking the absence of any fixed procedural rules by which admission and detention of compliant incapacitated patients was conducted. The result was that healthcare professionals assumed full control of the liberty and treatment of the individual. However unquestionable their good faith was, this amounted to a breach of Article 5(1) and (4) of the European Convention.

[34] In response to this judgment the Mental Capacity Act 2005 established the Court of Protection and subsequent legislation has clarified and added to its provisions. In addition the Court of Protection has developed guidance such as issued by its President in *Re X* after the *Cheshire West* decision.

[35] As the hearing before me developed the differences between the order proposed by the Trust and the alternative route suggested by the Attorney General became less significant than appeared in earlier submissions. The end result is much the same whichever approach is taken – on the plaintiff's version the deprivation of liberty is lawful while on the Attorney General's version the deprivation of liberty is not unlawful.

[36] Having indicated above that little turns on the competing versions advanced, if Mr X had not died I would have made an order in the following terms:

> "The court being satisfied that the first named defendant lacks capacity to decide where he should live and what care and treatment he needs.
>
> It is declared that:
>
> (i) For the duration of the review period as defined in paragraph (iv) below, the deprivation of liberty of the first named defendant by the plaintiff at care home A, being in the existing circumstances necessary and in his best interests, is not unlawful by reason only of the inability of the first named defendant to consent to it.
>
> (ii) The provision of care and supervision to the first named defendant, in accordance with the care plan provided to the court and exhibited to this order, by the plaintiff at care home A and elsewhere under the control of the plaintiff to the extent necessary in order to serve the best interests of the first named defendant is

not unlawful by reason only of the inability of the first named defendant to consent to it.

(iii) In the event that the first named defendant is discharged from guardianship, the plaintiff shall apply forthwith to the court for a review or discharge of this order.

(iv) The review period means 12 months from the date on which this order was made or, if an application for review has been filed with the court before that date, until determination of such review application.

(v) Liberty to apply."

(e) Guidance for the future

[37] The detailed guidance issued in England and Wales in *Re X* was broadly supported in the submissions which I received. Subject to one specific issue which is dealt with below, equivalent guidance should be introduced in this jurisdiction by means of a new rule of the Rules of the Court of Judicature and/or by means of a practice direction to be issued by the Lord Chief Justice. Experience since this case was heard has shown that very few of these applications are in any way controversial – but they still have to be made and adjudicated upon until some other statutory procedure is put in place. The obvious solution is to give responsibility to the Mental Health Review Tribunal which is unquestionably the body with all of the necessary skills and experience to fill this role. Whether it is the High Court or the Tribunal, additional resources will be required because the consequence of *Cheshire West* is to require legal sanction for what were previously regarded simply as benign arrangements.

[38] As matters stand, on receiving deprivation of liberty applications, which necessarily include a medical report on capacity, it is normal court practice to appoint the Official Solicitor to represent the patient. The Official Solicitor's Office typically reports commendably quickly and the hearing is arranged as soon as possible thereafter. The views of relatives are normally included in the Trust papers and in the Official Solicitor's report. This enables the court to consider whether any person, such as Ms Y in the present case, needs to be joined either as a defendant or a notice party. Unless there is anything of concern in the papers the court does not normally require the attendance of doctors such as psychiatrists at oral hearings but the responsible social worker typically attends so that any issue about the care plan can be explored e.g. the frequency of trips out of the care home. In addition family members often attend and sometimes express their views and concerns orally.

[39] In every new case an oral hearing is conducted. Later reviews, typically 12 months or so later, are conducted initially as a paper exercise. Sadly the pattern is that there is no improvement in these cases, only a decline, so that a further order for 12 months is appropriate. Consideration might be given to longer periods of renewal where it is entirely clear that there will not be any improvement but a review has to be scheduled for some point in the future. The liberty to apply provision allows the patient's rights to be raised and considered at any time if there is a change in circumstances.

[40] The only debate of note stimulated by the *Re X* guidance was in relation to paragraph [35](viii) and (ix). This provided that the application form should include questions directed to the following matters:

> "(viii) The steps that have been taken to notify P and all other relevant people in P's life (who should be identified) of the application and to canvass their wishes, feelings and views.
>
> (ix) Any relevant wishes and feelings expressed by P and any views expressed by any relevant person."

A concern was expressed that this was potentially an exceptionally wide group of people. In our experience, in this jurisdiction to date, the number of relevant people is actually very small, sadly but perhaps inevitably given the unhappy circumstances of people who are subject to guardianship. On reflection, it appears that the concern about the English guidance might not be well founded. It appears on further examination to include in the concept of "relevant people" somebody who has a power of attorney for the patient and/or somebody who has played a significant role in the life of a patient e.g. a neighbour who had contributed a lot to the care of the patient until that no longer became feasible. In addition, as the Attorney General highlighted, Article 19 of the 1986 Order provides that when any application for guardianship is made, there is an obligation to consult with the nearest relative of the patient unless that is not reasonably practicable or would involve unreasonable delay. In other words there is already a statutory requirement to consult with the nearest relative.

[41] I do not believe that it is possible or necessary to define exhaustively the list of people who are to be consulted with. The circumstances of each patient will inevitably be different. It is likely that some but only a few will have given a power of attorney to an individual. It is likely that some will have more active relatives in their lives than others. It is also likely that some will have benefited from the support of extended family or friends or neighbours. So long as the social work report captures the views of those who have played an active meaningful role in the life of the patient, the court is likely to be satisfied.