

Judicial Review – DHSSPS / Article 8

Judicial Review

- Down & Lisburn Trust decided to close St John's House, Downpatrick (residential home for the elderly)
- Applicant offered alternative place 6 miles away
- Provision of a minibus or alternative transport to retain social contacts

Application

- Illegality by reason of the infringement of her Article 8 Convention rights
- Failing to fulfil her legitimate expectation of a home for life at St John's
- Failing to take account of proper considerations and only such considerations; and
- Irrationality in failing to properly inform itself of the relevant facts.

Examination

- There was interference with Article 8 (1)
- It is for the Trust to justify under Article 8 (2) the enforced move from one particular place to another
- In arriving at a decision a fair balance has to be struck between the interests of the general community and the interests of the individual

Judgement

- Legitimate aim “Older people, new opportunities..”
- Trust wishes to reallocate resources for the benefit of the wider population
- It undertakes to reinvest savings in care for the elderly (resources reallocated not cut)
- Alternative accommodation which is reasonably equivalent
- Provision of transport to maintain social contacts
- Trust’s decision is proportionate