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TX: 20.03.03 – NEW COURT DECISION GIVES HOPE TO CARE HOME RESIDENTS

PRESENTER: CAROLYN ATKINSON

ATKINSON

A high court decision has given new hope to 27 people with dementia living in a privately run care home on Merseyside which was due to close at the end of the month. A high court judge has granted permission for a judicial review, as early as next week, it could have far-reaching effects for thousands of other council funded residents looked after in private homes.

Well Yvonne Hossack is the solicitor acting on behalf of the Delamere Home on Merseyside, she's in our Leeds studio now. Yvonne good afternoon. Can you briefly tell us about the residents that you're representing?

HOSSACK

Yes the residents that I'm representing are very profoundly disabled people. Some - many - can't communicate by speech, some don't even respond to touch. I always put my hand over theirs when I go and see an elderly person because touch is the last sense to leave us. Most people will look at you if you touch them, they know that it transmits love anyway. Some of my clients couldn't even respond to touch.

ATKINSON

Now your worry in all of this is that these people are so severely disabled that any alteration in where they live could have a devastating effect. You'd been told there was no chance of a rethink about this closure, now you've got a rethink - why have they changed their minds?

HOSSACK

The courts have had a look at our argument, which is that councils when they're deciding on care fees and those decisions would cause closure should take into account the effect on the residents and the residents' human rights to life and freedom from inhuman treatment.

ATKINSON

And your argument is they've only been looking at the financial package - the cost?

HOSSACK

That's right. My clients are very commonly called unit costs, my clients are not units, my clients are people with names.

ATKINSON

Why are you so keen to win this though, what evidence do you have that moving people would have a detrimental effect on their health?

HOSSACK

We have evidence that dates back for 40 years which shows that there is a statistical increase in mortality when frail elderly people are moved in unsafe ways or if they're moved at all. We also have in the recent Lancashire case the evidence of a very eminent psychogeriatrician, Professor Jolly, who says in terms that moves are lethal and that the best efforts that you make to ameliorate the effects do ameliorate them, they don't eradicate them.

ATKINSON

There is evidence that people have died after being moved though isn't there?

HOSSACK

There is evidence. I was recently called in right at the end of Magnolia House in Leamington Spa when it was too late - really too late to do anything. And in the three weeks following closure four of the residents died, another one has since died. And I followed a closure myself, back in '98, and 15 out of 41 residents died in the year following closure and that was a mortality rate of 37 per cent. And I followed five of them very closely and I saw one lady with severe mental difficulties fade and die in five weeks and it was a terrible thing to see.

ATKINSON

Now You and Yours has been following the whole issue of care home closures for many months, what do you think are the overall implications of this judicial review that will be taking place, given that 80 per cent of all council funded care home residents are actually looked after in private homes like this one?

HOSSACK

Yes at the moment the residents of public homes - and I represent, have represented and do represent, very many of those - can claim human rights. When residents go into a private home, as the law stands at the moment, they don't have human rights, they can't judicially review a care home owner. These clients are judicially reviewing the council direct, saying that the local authority has a duty towards them and therefore their human rights are engaged and challenged and the court should be able to look at them. And that, I hope, will have far reaching effects on councils all over the country in considering what will happen to the elderly people if they make decisions that force the closure of homes.

ATKINSON

Okay Yvonne Hossack, the solicitor acting on behalf of Delamere Home, thank you very much indeed.