R v Gloucestershire CC ex p RADAR

Queen's Bench Division
Carnwath J
21 December 1995

An obligation to reassess persons' needs for community care services is not discharged by writing letters to those affected offering them reassessment. It may not be irrational (and was not irrational in this case) to fail to restore services, unlawfully withdrawn, pending reassessment.

Facts

In September 1994, for reasons of financial stringency, the respondent authority cut services provided under Chronically Sick and Disabled Persons Act 1970 (CSDPA) s2 to about 1,000 disabled individuals. In *R v Islington LBC ex p McMillan; R v Gloucestershire CC ex p Mahfood, Barry, Grinham and Dartnell* (1997) 1 CCLR 7 the divisional court agreed with the respondent authority that it was entitled to take into account the amount of financial resources available to it, but held that it was unlawful to make service provision decisions solely on the basis of resources considerations. By failing to reassess the needs of the individual service users affected by cuts, in the context of the needs of others and its own financial position, the respondent authority had effectively treated lack of resources as the sole relevant factor. It followed that the respondent authority came under a duty to reassess the 1,000 or so affected individuals, which it did by sending a letter to all those affected stating that:

> *. . . [the Council is] offering you the chance to have your needs looked at again . . . You do not have to have this reassessment, but if you do our staff will look at your personal situation and your needs. We will also have to look at how much money and other resources the Social Services Department has and the needs of other disabled people in the county.*

Of those contacted, 273 replied taking up the offer of reassessment. The applicant complained that sending the letter did not discharge the respondent authority's duty to reassess and also that the respondent had acted unlawfully in not reinstating the unlawfully withdrawn services pending reassessment.

Held (allowing the application in part):

1 The duty to reassess was not satisfied by writing letters to those affected or potentially affected which simply offered them reassessment. In other areas of law persons might be assumed to be capable of looking after their own interests, so that silence in response to an offer could be treated as acceptance or acquiescence. The duty to carry out an assessment for community care services does not depend on a request being made, however, but on the 'appearance' of need: under National Health Service and Community Care Act 1990 s47(2), where it appears that a person is disabled, the authority is required to make a decision as to the service s/he requires without waiting for a request. The authority cannot carry out an effective reassessment without some degree of co-operation from the service user or his/her helpers. It was not lawful, however, to rely simply on having sent a letter of the type sent in this case.

2 The respondent authority could lawfully take the view that a blanket decision to restore all services cut prior to the decision in *Mahfood* would not be appropriate because:

a) the divisional court had not quashed the policy decision which led to individual reductions and had affirmed that the respondent was entitled to take its resources position into account;
b) it would be confusing and unsatisfactory for services to be restored for a short time, only to be withdrawn or reduced shortly afterwards following a reassessment;
c) services of the type in question inevitably raise considerations of an individual and personal nature.

3 The applicant had *locus standi* to bring the application. The general principles relating to the nature of the reassessment which the respondent authority was obliged to carry out were matters of public importance in the respondent's area, which could properly and conveniently be asserted by a body such as RADAR.

4 Relief would not be refused on the ground that an alternative remedy existed, namely, complaint under Local Authority Social Services Act 1970 s7B. Where there is a general issue of principle as to an authority's obligations in law, the complaints procedure is not a suitable or alternative remedy to judicial review.

Cases referred to in judgment:

R v Department of Transport ex p Presvac Engineering (1992) 4 Admin LR 121; (1991) *Independent*, 26 June; (1991) *Times*, 10 July, CA.

R v Secretary of State for Foreign and Commonwealth Affairs ex p World Development Movement [1995] 1 WLR 386; [1995] 1 All ER 611; [1995] COD 211; (1995) 145 NLJ Rep 51; (1994) *Times*, 27 December; (1995) *Independent*, 11 January, QBD.

R v Islington LBC ex p McMillan; R v Gloucestershire CC ex p Mahfood, Barry, Grinham and Dartnell (1996) 8 Admin LR 181; (1996) 160 LG Rev 321; (1996) 30 BMLR 20; [1996] COD 67; (1995) *Times*, 21 June; *Independent* 20 June, QBD.

R v Monopolies and Mergers Commission ex p Argyle Group [1986] 1 WLR 763; (1986) 130 SJ 467; [1986] 2 All ER 257; (1986) 83 LS Gaz 1225, CA.

Legislation/guidance referred to in judgment:

Chronically Sick and Disabled Persons Act 1970 s2 – Disabled Persons (Services, Consultation and Representation) Act 1986 s4 – Health Services and Public Health Act 1968 s45 – Interpretation Act 1978 s12 – Local Authority Social Services Act 1970 ss7 and 7B – National Assistance Act 1948 Part III and ss21 and 29 – National Health Service and Community Care Act 1990 s47 – *Care Management and Assessment: A Practitioners' Guide* (HMSO, 1991) (The Practice Guidance) paras 2.17 to 2.19.

This case also reported at:

[1996] COD 253, DC.

Representation

R Gordon QC and A MacLean (instructed by the Public Law Project) appeared on behalf of the applicant.

P Eccles QC and C Frazer (instructed by the Legal Department of Gloucestershire County Council) appeared on behalf of the respondent.

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A **Judgment**

MR JUSTICE CARNWATH:

Background

This application arises out of the Respondent's attempts to rectify the illegalities exposed by the judgment of the Divisional Court in *R v Gloucestershire County Council ex parte Mahfood*, and other related cases (unreported, 16 June 1995)[see now (1997) 1 CCLR 7, QBD]. That case concerned a number of disabled people in the County Council's area who were in receipt of assistance under Section 29 of the National Assistance Act 1948. In September 1994 the Council decided, for reasons of financial stringency, to end or reduce the services so provided. The legality of that action was challenged by four of those affected, in what were treated by both parties as 'test cases'. Counsel appearing for the applicants was instructed by the Public Law Project and is the same as counsel appearing for RADAR in the present application.

A central issue in the case was whether the Council could take this action without a reassessment of the Applicants' needs. The Council's case was that such a reassessment was not required given that the decision was made in the light of the cut in the Council's resources:

> *The reason was that the decisions made were not related to the applicants' individual situations. There was no need to do more than send out a standard form of letter telling them of the removal or reduction of the benefits; and indeed nothing that the applicants could have said would have made any difference. (Transcript B15E to G)[see now (1997) 1 CCLR 7 at p14A].*

The Divisional Court disagreed. They concluded that the authority were entitled to take account of resources, both when assessing needs and when deciding whether it is necessary to make arrangements to meet those needs (ibid B21C to D). They continued:

> *On any view Section 2(1) [of the Chronically Sick and Disabled Persons Act 1970] is needs-led by reference to the particular needs of a particular disabled person. A balancing exercise must be carried out assessing the particular needs of that person in the context of the needs of others and the resources available, but if no reasonable authority could conclude other than that* some *practical help was necessary, that would have to be its decision.*
>
> *Furthermore, once they have decided that is necessary to make the arrangements, they are under an absolute duty to make them. It is a duty owed to a specific individual and not a target duty. No term is to be implied that the local authority are obliged to comply with the duty only if they have the revenue to do so. In fact, once under that duty, resources do not come into it.*
>
> *It would certainly have been open to the Gloucestershire County Council to reassess the individual applicants as individuals, judging their current needs and taking into account all relevant factors including the resources now available and the competing needs of other disabled persons. What they were not entitled to do, but what in my judgment they in fact did, was not to reassess at all but simply to cut the services they were providing because their resources in turn had been cut. This amounted to treating the cut in resources as the sole factor to be taken into account, and that was, in my judgment, unlawful. Moreover I see no reason to deny the applicants a declaration to that effect. (per McCowan LJ p 22–3)[see now (1997) 1 CCLR 7 at p16F-J].*

The Court made a declaration as follows:

It is ordered that this motion be allowed for a declaration that the Respondent has acted unlawfully in that it has, on the sole basis of having exhausted available resources, withdrawn service previously provided or offered to the Applicant pursuant to section 2 of the Chronically Sick and Disabled Persons Act 1970, without a lawful reassessment of the Applicant.

Following that judgment, the authority's Strategy and Resources Committee received a report on 26 June 1995 headed 'Community Care – Judicial Reviews'. The report commented on the judgment. It noted the conclusion that Gloucestershire had been right to take resources into account, but continued:

The Court felt however that before an existing service could be reduced in any way, comprehensive individual assessment should be carried out. The existing practice within the Department is that a time-consuming and costly comprehensive assessment is only used in the most complex cases and in other cases a shorter review process is used.

(I shall need to refer later to the use of the term 'comprehensive assessment'.)

It continued:

. . . it would now seem appropriate for Social Services to replace the existing review procedure for community care cases with the type of comprehensive review indicated by the Court.

It was estimated that this would cost an additional £200,000. It was noted that groups representing people with disabilities had requested that all service reductions should be reinstated pending reassessment. The cost of reinstating service reductions carried out since last September was estimated at around £400,000. The Committee was asked to decide whether additional resources could be allocated to support the reassessment exercise, or to finance the reinstatement of services. The Committee minutes note that there was a proposal from a member to allocate the £200,000 needed to finance reassessment, but that:

In rejecting these proposals the committee has taken account of the out-turn for 1994/95, the prospects for 1996/97 and of future years and the Council's experiences in previous years. Members have taken the view that it would be unwise, at the beginning of the financial year, to commit additional resources. In terms of the significant shortfall in resources of community care it has been stressed that the only viable solution is for the Government to provide the urgently needed additional resources both of this and other local authorities.

The matter came before the full Council on 19 July 1995. There is a note of a public question put by Mr Derek Vizor to the Chairman of the Social Services Committee. The questioner asked when the authority was going to comply with the judgment by restoring the services to the 1,500 people affected pending the reassessment process. (The precise figure of those affected varies in the documents from about 1,000 to 1,500, but is not material to the principle.) In answer it was stated that, apart from individual reassessments in the four cases before the Court:

It is also acknowledged that, as a result of the decision, other individual cases will have a right to be reassessed in a similar way.

However, since the authority was entitled to take account of resources, reassessment might not lead to the restoration of services.

For people whose services have been reduced or withdrawn, the County Council

is now determining whether or not appropriate review procedures have been followed bearing in mind the legal basis of the service provision. Where it is determined that an appropriate review process has not been followed, the people concerned will be contacted as soon as possible and offered reassessment. Any such reassessments will again take account of the resources currently available and could lead to service continuing at the present level, being increased or reduced. Reassessments will be carried out as soon as resources allow but, in view of the time which has now passed and the fact that people's needs may well have changed, the County Council does not feel that it would be appropriate to reinstate services until a reassessment has been undertaken. As the Strategy and Resources Committee was not able to provide additional funds it could be some time before all the reassessments are complete. This additional work would have to be undertaken by visiting staff who are already under considerable pressure.

The background to that answer is further explained in the Affidavit of Mr Frederick Davies, Deputy Director of Social Services. He says (para 17) that the County decided to offer comprehensive reassessments to all the 1,059 clients affected by the Divisional Court decision. It sent a letter to all 1,059 service users, one form of letter being for those whose services had been reduced, the other for those whose services had been wholly withdrawn. A total of 273 people had replied that they wished to take up the offer of reassessment. Arrangements had been made to carry out reassessments at the rate of about 20 per week with the assistance of the equivalent of four full-time staff and support staff. I understand that by the time of the hearing before me the 273 reassessments had been fully completed, as well as the assessments on the original Applicants before the Divisional Court. I also understand that in the majority of cases the reassessments have resulted in the original decisions to withdraw or reduce services being confirmed, but in some cases services have been wholly or partially restored. I have been shown the forms of letter sent out in August 1995 as described by Mr Davies. The letters indicate that, following the High Court's decision, the Council is:

. . . offering you the chance to have your needs looked at again . . . You do not have to have this reassessment, but if you do our staff will look at your personal situation and your needs. We will also have to look at how much money and other resources the Social Services Department has and the needs of other disabled people in the county.

A press release dated 8 August 1995 from the County Council described the process on which the County had embarked. The release explained that:

. . . it was ruled that the authority should have carried out formal reassessments before altering the packages of care to 1,200 people in the county.

Letters to people who had had their care reduced or removed:

. . . would give them the option to go through reassessment or not.

Mr Davies was quoted as saying that they were trying to be 'fair and open' and:

. . . if people decide that they would like a reassessment we will carry it out with no questions asked. However, I have to stress that we cannot guarantee that those services will be increased following a reassessment. It is possible they could remain the same or even be reduced.

On 23 August 1995 RADAR's project solicitor wrote to the Council indicating that he was instructed by the association to apply for Judicial Review:

. . . unless those services provided under section 2 of the Chronically Sick and Disabled Persons Act 1970 and subsequently withdrawn without a reassessment are restored forthwith.

By letter of 30 August 1995 the County Solicitor replied, saying:

In view of the time which has elapsed since the earlier changes and the fact that people's needs may well have changed, the Council does not feel that it would be appropriate to reinstate services until a reassessment has been undertaken. The Council is proceeding as speedily as resources and the time it takes to complete full reassessments allows.

He also questioned RADAR's standing to seek Judicial Review. The practical problems there referred to are explained in Mr Davies' Affidavit. He notes that the Council has increased its charges for community care provision as from April 1995, and it would be necessary therefore to discover whether service users were prepared to pay for the services at the pre-Autumn 1994 level. It was also possible that they had made alternative provision for themselves at lower rates than the Council would have to charge, or other arrangements with friends or voluntary organisations. Furthermore, the circumstances of each individual might have changed significantly, and a blanket decision to reinstate the services would not necessarily be appropriate, even if practical. Furthermore, if the Council was obliged to reinstate services pending reassessment, he would have to recommend that each client be warned that the reinstatement might be only temporary. He is concerned at the damage to morale if services are restored and then reduced again after reassessment.

Leave to move for Judicial Review was granted to RADAR on 21 September 1995. They seek certiorari to quash the decision of the Council; mandamus to require the Council:

. . . to resume the provision to disabled people of their services provided under the Chronically Sick and Disabled Persons Act 1970. . .

and declarations that it is:

. . . unlawful for the Council not to continue to provide services under section 2 of the Chronically Sick and Disabled Persons Act 1970, once it has decided that to meet the needs of service users it is necessary to make arrangements to provide such services . . .

and that:

. . . the Respondent has acted unlawfully by failing to restore services to all those persons from whom services were withdrawn in September 1994 pending a lawful reassessment of their community care needs.

The relevant legislation was set out in the *Mahfood* judgment, and it is unnecessary for me to repeat it. In my view, the position following that judgment is relatively straightforward. The Court ruled that the authority were not entitled to remove or reduce services without reassessment. Although specifically applied to the four then Applicants, the Council have rightly accepted that the reasoning of the judgment also applies to others who were receiving services before September 1994, and who lost them or had them reduced at that time. In taking away or reducing those services without reassessment, the authority was acting unlawfully. It follows that, to remedy the position, it must carry out the appropriate reassessments as soon as practicable.

A On the other hand, the Court in *Mahfood* did not – and was not asked to – quash the policy decision, made in September 1994, which led to the individual reductions. The Court did not lay down precisely what the authority were required to do in cases other than those specifically at issue. Services of the type here in question inevitably raise considerations of an individual and personal B nature. The Council could properly take the view that a blanket decision to restore the services precisely as they were in September 1994 would not be appropriate. In particular I see force in the point that it would be confusing and unsatisfactory for services to be restored for a short time, only to be withdrawn or reduced shortly afterwards following a reassessment.

C Thus, I do not think that RADAR were entitled reasonably to insist on a decision to restore services before the reassessments were carried out. Equally, it has to be recognised that those reassessments need to be carried out by properly trained persons and that the process will take time. It is not for the Court to lay down a programme, but the arrangements outlined by Mr Davies to deal with the D workload appear to achieve a reasonable balance.

Where, however, I would take issue with the authority, is the suggestion that the task of reassessment following the judgment is satisfied by writing letters to those affected or potentially affected, and simply offering them reassessment. In some areas of the law that might be an adequate response, where those affected can be E assumed to be capable of looking after their own interests, and where silence in response to an offer can be treated as acceptance or acquiescence. However, that approach is not valid in the present context. The obligation to make an assessment for community care services does not depend on a request, but on the 'appearance' of need. Indeed, under section 47(2) of the 1990 Act [National F Health Service and Community Care Act], where it appears that a person is disabled, the authority is specifically required to make a decision as to the service he requires without waiting for a request. Of course, the authority cannot carry out an effective reassessment without some degree of co-operation from the service user or his helpers. However, that is a very different thing from saying that they G can simply rest on having sent a letter of the type to which I have referred.

In my judgment, the authority has not discharged its obligations following the judgment simply by reassessing those 273 persons who replied to the letter. By implication, all the people affected by the September 1974 decision were people who, prior to that date, 'appeared' to the authority to have need of its services. For H the authority to justify the continued reduction or withdrawal of the services, it must carry out a reassessment as required by the judgment of the Divisional Court. Quite apart from the judgment, the clear scheme of section 47 is that decisions on services should follow assessments. As the Divisional Court recognised, that means individual assessments. There is no suggestion in the report to I the Council in June 1995 that there is any practical difficulty in carrying out the reassessment of the 1,059 users. Clearly money would need to be found for it, but it is not suggested that that is impossible.

To summarise, I think both parties have taken unduly extreme positions. RADAR were wrong to insist upon full reinstatement prior to reassessment. But J the Council were wrong to think that merely reassessing the 273 who had replied to their letters discharged their duties.

I need to deal with certain other points raised in argument. In the first place, the Council seeks to draw a distinction between the 'section 29 disabled' and others. As I understand it, this is a reference to section 29 of the National Assist- K ance Act 1948, which provided the framework for services to those who are subject to various disabilities specified in the section or as prescribed by the

Secretary of State. Section 2 of the Chronically Sick and Disabled Persons Act 1970 imposes a duty on the authority to make certain categories of arrangements to such persons under section 29, including provision of practical assistance in the home. They are also required to do so 'under the general guidance of the Secretary of State' (section 7 of the Local Authority Social Services Act 1970). Section 29 of the 1948 Act is in Part III of that Act, which includes other provisions for services provided by Social Service Departments, such as accommodation for the elderly (section 21). Other provisions for promoting the welfare of the elderly are contained in the Health Services and Public Health Act 1968. The 1990 Act introduced the concept of 'community care' as a statutory obligation, and with it a broad definition of 'community care services', which included services provided by the authority not only under Part III of the National Assistance Act 1948, but also under other statutes such as section 45 of the Health Services and Public Health Act 1968. Section 47(1), which is set out in the judgments in *Mahfood*, requires the authority to carry out an assessment in relation to any person who appears to be in need of any community care services, and then to make a decision as to what if any services those needs require. Then under subsection (2), where during the assessment under subsection (1) it appears that the person in question is a disabled person, they must make a specific decision as to the services he requires as a disabled person.

The authority says, rightly, that the judgment of the Divisional Court in *Mahfood*, and the related cases, was concerned with persons owed a duty under section 2 of the 1970 Act, in other words 'section 29 disabled'. As Mr Davies explains, some of those affected by the 1994 decision, would have been enjoying home care services provided since long before the 1990 Act came into effect. Many therefore would never have received formal assessments under the 1990 Act, but would simply have been receiving services which were continued following the Act coming into force in April 1993.

I do not see any validity in this point. Whatever the scope of the services being provided in April 1993, they were presumably being provided to people who appeared to the authority to be in need of them. They were thus *prima facie* within the net of section 47. Although clearly the authority were not obliged immediately to reassess everyone, the powers and obligations under section 47 are continuing (see Interpretation Act 1978 s12). Whether under subsection (1) or subsection (2), the authority cannot make a lawful decision, either to provide new services, or to reduce those which have been provided, without an assessment or reassessment.

That leads to the question whether the authority was required to carry out 'a comprehensive assessment'. Mr Davies explains (his Affidavit para 17) that following the Divisional Court's judgment the Council took the view:

> *Having regard to the legislation and to the practitioners' guide, that if a reassessment was to be carried out and the client was disabled within the meaning of section 29 of the National Assistance Act 1948 that client was entitled to a comprehensive assessment.*

The practitioners' guide to 'Care Management and Assessment' was issued by the Department of Health and Social Services Inspectorate in 1991. I was referred to paragraphs 2.17 to 2.19. Paragraph 2.17 says this:

> *Agencies will want to determine their own levels of assessment according to their policies, priorities and available personnel, but, as an example, it is possible to distinguish six levels of assessment.*

There follows a table in which six levels of assessment are described ranging from 'simple assessment' to 'comprehensive assessment'. Paragraph 2.19 under 'Assessment of disabled persons', says this:

> *The type of assessment response will normally be related as closely as possible to the presenting need. However, there is one legally prescribed exception. Where a person appears to be 'disabled' under the terms of the Disabled Persons (SCR) Act 1986, the local authority is required to offer a comprehensive assessment, irrespective of the scale of need that is initially presented.*

The footnote cites section 47(2) of the 1990 Act.

I do not, with respect to the authors, find this easy to follow. The sections referred to do not use the expression 'comprehensive assessment'. As I have said, section 47(2) is concerned with an obligation to make a decision, without any specific request, on the needs of the disabled person for the range of services referred to in section 2(1) of the 1970 Act. I have some sympathy for those trying to write these sort of guides since the complexity of the legislative chain, combined with the length of the titles of most of the Acts, makes short and accurate exposition particularly difficult. However, if what is intended is to define the legal obligation in respect of the disabled, then it can only be intended as a reference to the decision referred to in section 4 of the Disabled Persons (Services, Consultation and Representation) Act 1986, that is, as to the range of services required under section 2 of the 1970 Act. I take that to be the intended meaning of the word 'comprehensive'. If it is intended to mean anything else, it is misleading. It is also unclear to me whether the word 'comprehensive' in paragraph 2.19 is used in the same sense as in the table referred to in paragraph 2.17.

In any event, the resolution of this linguistic argument does not seem to me necessary for the purposes of my decision. As I see it, the authority's duty, if it is to maintain the reductions made in September 1994, is to carry out the reassessment it should have done then, whether under subsection (1) or subsection (2) of section 47. Everyone is entitled to be reassessed under subsection (1). Anyone who appears to be a disabled person within the meaning of subsection (2) is entitled to be reassessed under that subsection. The extent of the 'assessment' required will depend on the individual circumstances of each case.

Mr Eccles, for the County Council, also raises two discretionary matters. First, he says, RADAR do not have the necessary *locus standi* to entitle them to relief by way of Judicial Review. He has referred me to a number of authorities on this much discussed issue, but they are in my view sufficiently summarised in *R v Foreign Secretary ex parte World Development Movement Limited* [1995] 1 WLR 386. On p395 Rose LJ referred to a number of factors which led the Court in that case to consider that the World Movement had *locus*. He referred, *inter alia*, to the importance of the issue raised, the likely absence of any other responsible challenger, and 'the prominent role of these Applicants in giving advice, guidance and assistance with regard to aid'. I should also refer to the discussion in the recent fifth edition of De Smith *Judicial Review of Administrative Action* (edited by Lord Woolf and Professor Jowell), where the authors contrast the approach at the leave stage and that when the Court is reaching its final conclusion. The authors refer to the judgment of Purchas LJ in *R v Department of Transport ex parte Presvac Engineering Limited* (1992) 4 Admin LR 121, where he said:

> *Personally I would prefer to restrict the use of the expression locus standi to the threshold exercise and to describe the decision at the ultimate stage as an exercise*

of discretion not to grant relief because the Applicant has not established that he had been or would be sufficiently affected.

Similarly, Lord Donaldson MR said in *R v Monopolies and Mergers Commission ex parte Argyle Group* [1986] 1 WLR 763 that at the hearing stage:

. . . the strength of the Applicants' interest is one of the factors to be weighed in the balance . . .

Having cited these authorities the authors conclude:

If the decision which is a subject of the application affects the public at large or for some other reason its validity is of general public consequence, then the extent of the Applicant's personal involvement is going to be of less importance.

Turning to this case, the working out of the implications of the Court's decision in the test cases earlier this year is certainly a matter of general public importance in the County's area. I entirely accept Mr Eccles' point that, as applied to individual Applicants, there will be many personal factors to be taken into account, which a body such as RADAR is not in a position to represent. Unlike the World Development Movement, RADAR is not the only likely litigant. Each individual service user has an independent interest in asserting his interest, as indeed did Mr Mahfood. For this reason it would be very rare that it would be appropriate for a coercive order, such as an order of mandamus, to be granted to a body like RADAR, compelling the authority to make provision for individuals, which might on investigation turn out to be inappropriate, or indeed unwanted. However, the general principle, that the authority is obliged to go through a process of reassessment in respect of all those affected by the 1974 decision, is one which can in my view properly and conveniently be asserted by a body such as RADAR. It cannot be in anyone's interest that it should be left to each individual separately to assert that right. No doubt other individual test cases can be brought, but there is always a risk that if the particular individual loses his direct interest, either because his circumstances change or because the authority carry out a reassessment, then the proceedings will prove abortive. In my view RADAR has a sufficient interest to entitle it to a declaration as to the position as I have outlined it.

Next, Mr Eccles suggests that there is an alternative remedy by way of complaint, under the procedure set up pursuant to section 7B of the Local Authority Social Services Act 1970 (inserted by the 1990 Act s50). This may be relevant in particular cases, especially where individual relief is being sought. However, in relation to a general issue of principle as to the authority's obligations in law, such as I have been discussing here, I do not think that can be regarded as a suitable or alternative remedy to the procedure of Judicial Review.

Turning to the relief sought in the amended form 86A, as I have made clear I do not think it appropriate to make a coercive order of mandamus. Nor does it seem to me that there is any decision which requires to be quashed. What the authority has done is good as far as it goes, but it does not go far enough. The two declarations sought concentrate on the authority's obligation to provide the services. As I have said, I do not think it appropriate to require, either expressly by mandamus or implicitly by a declaration, the authority to restore these services to the 1994 level until they have had an opportunity to reassess. However, I have held that the authority are wrong to consider their duties discharged by the assessments carried out on the 273 who have specifically responded to their letter. If necessary, and subject to the submissions of Counsel, I would in principle be willing to grant a suitably worded declaration to give effect to that finding.