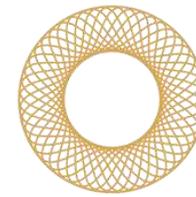


Outer Temple

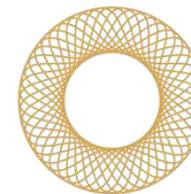
**How far can you push the Court when
evidencing a decision to sell a property when
moving a person permanently into residential
care?**

Alex Cisneros



Status quo?

- About 850,000 people in UK have a diagnosis of dementia (NHS website)
- 2/3rds of those people live in their own home (Dawson et al., 2015)
- In 2022, around 7% of the UK population were providing informal care (Family Resources Survey, 23 March 2023)



Status quo?

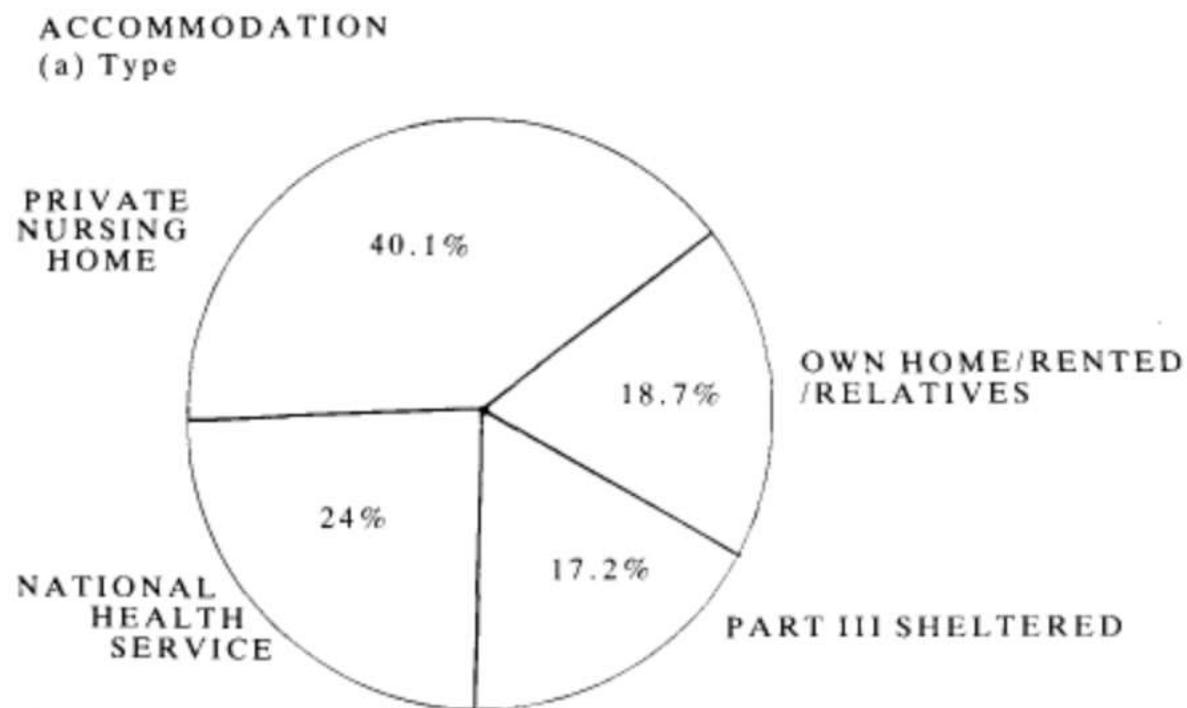
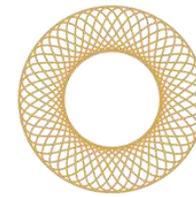
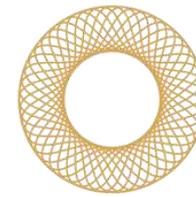


Figure 7.



Status Quo?

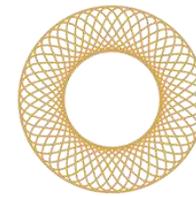
If the status quo is home, how do you justify removing that option?



When might you have to justify?

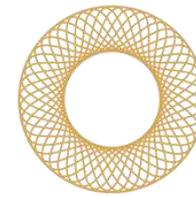
“the person who holds the purse strings has the greatest say probably in how that money should be used for accommodation”

- *‘The Court of Protection’: Mrs A.B. MacFarlane, Master of the Court of Protection, 9 May 1991*



When might you have to justify?

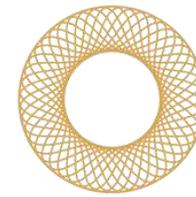
- Asking for additional authority (deputy)
- Deprivation of liberty
- Complaint to OPG/ revocation (or removal) proceedings
- Probate



Before selling (seeking authority)

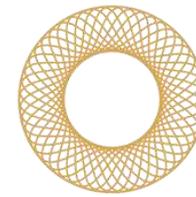
“(1) a specific order is preferable to the appointment of a manager and (2) the powers of any manager should be as limited in scope and duration as possible”

Para 8.35, Law Commission: Mental Incapacity (Law Com No 231)(1995)



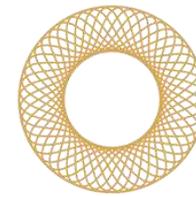
Justifying the decision – Best interests

- **Wishes and feelings**
- **Likelihood of returning**
 - Medical/ social care evidence
- **What else the money may be needed for**
 - Care fees?



Justifying the decision – Best interests

- **Other people's interest in the property (legal and emotional)**
 - Potentially beneficiaries of estate
 - See property disregards (Care fees)
- **Value of the property**
 - Emotional as well as financial
- **Benefit of selling vs renting**



What if challenged?

- **SRA v Hunjan**
- **Negligence (Market value)**
 - NB selling to a relative for less is a gift
- **Probate**