Housing Law
Practitioners' Association

HOUSING LAW UPDATE

John Gallagher
SHELTER
November 2023

SHELTER

Westminster CC v Kazam and Rahimi

- 2005: Joint secure tenancy granted to K and his wife, Ms H
- 2011: K left the property and was rehoused by the Council
- Westminster removed K's name from the tenancy record
- The housing file contained an internal document "Amendments to housing tenancy details", in which the housing officer had ticked the option "joint to sole". A handwritten note stated "Please remove Mr AM Kazam from rent account". The form was signed by the housing officer and witnessed by the estate manager.
- 2017: Ms H's grandson, R, came to live with her.
- 2020: Ms H died
- The Council denied that R was entitled to succeed to the tenancy and claimed possession.

Westminster CC v Kazam and Rahimi (2)

- R argued that the events of 2011, when K left the property, amounted to a surrender by operation of law and a re-grant by the Council of a new tenancy, to which R was entitled to succeed.
- County court judge agreed and dismissed the possession claim…
- … but Westminster's appeal was successful.
- Lane J.: In order to show a surrender by operation of law in these circumstances, there had to be a "quality and depth of evidence" proving the re-grant of a new tenancy. This was far from the case.
- There had to be unequivocal consent to surrender at the time when K left the property.
- But K's interest was in being rehoused, and his conduct was equivocal, while there was no evidence that Ms H had agreed to the surrender.

Reading BC v Holland

- Ms H, aged 62, was the secure tenant of a flat in sheltered accommodation.
- From the start of her tenancy in 2019, there was a history of abusive conduct to neighbours, council staff and contractors. Other residents felt unsafe and had expressed a wish to leave the accommodation. H had caused damage to the emergency call system, putting other residents at risk.
- A medical report stated that H suffered from emotionally unstable personality disorder, and that she had a disability within the meaning of s.6, Equality Act 2010.
- The report concluded that there was a connection between her mental health condition and her behaviour, but “not one which absolved [her] from responsibility for her actions”.
- County court judge made a possession order.

Reading BC v Holland (2)

- H appealed to the High Court on the grounds that
  - The Council had failed to comply with the Public Sector Equality Duty (PSED) in .149 Equality Act 2010; and
  - It could not be proportionate to make a possession order where no suitable alternative accommodation was available for H.
- H argued that the Council must consider the specific effects that her eviction and resulting homelessness would have on her, bearing in mind her particular disability, and that further expert evidence was required.
- She also argued that the Council had not been able to demonstrate that it had considered all the options regarding suitable alternative accommodation, and that in the absence of such consideration, it had failed to comply with the PSED.

Reading BC v Holland (3)

- Appeal dismissed. There was no basis for interfering with the decision of the trial judge on either ground. On the issue of the effects of homelessness, there was insufficient evidence to disturb the judge's conclusion that "*the [Council] did adequately consider, with the required sharp focus, the effect of eviction upon the appellant in the light of her disability*."

- In terms of proportionality, the judge had carried out a balancing exercise and had concluded that "*maintaining her tenancy until suitable alternative accommodation can be found in the Borough of Reading would be disproportionate and cause unacceptable risk to the neighbours and others, and to property, all of which rely on the Claimant to protect them from those risks.*"

- The judge had considered whether a less drastic option than eviction, and had been compelled on the evidence to take the view that it was not feasible to find some other suitable accommodation for H.

Birmingham City Council v Bravington (Court of Appeal)

- S.233 Local Government Act (LGA) 1972 permits the service of notices 'required or authorised by or under any enactment' to be left at the recipient's last known address.
- Council served a notice of seeking possession on B by leaving it with his partner at the flat.
- Held, s.233 applies to service of notices under HA 1985, and service on partner was sufficient.

Richworth Ltd v Billingham (County Court at Central London)

- Landlord claimed to have returned B's deposit by cheque
- B said that he didn't accept cheques and hadn't paid it in.
- HHJ Luba KC: Deposit can be returned by cheque if the tenant either was obliged by prior agreement to accept cheques or where the tenant does not reject the cheque after a reasonable time..

Lowenthal v Djabbaroua (County Court at Wandsworth)

- 10 Jan 2018: Before start of tenancy, landlord emailed *How to Rent'* guide to D
- 17 Jan 2018: New version of *How to Rent* issued
- 26 Jan 2018: Tenancy started
- Subsequently, s.21 notice issued.
- Claim dismissed; (1) D had not consented to service by email; (2) Even if she had, the version served on her was out of date when the tenancy began.

Kaye v Lees [2023] EWHC 152 (KB)

- K (creditor) applied under reg 19 of the Debt Respite Scheme Regulations 2020 to cancel the mental health crisis moratorium (MHCM) which L had obtained, and to obtain an injunction preventing L from entering further moratoria.

- L submitted detailed arguments, but did not attend the hearing and had not complied with a direction to file ongoing evidence of her mental health.

- HHJ Dight found that there was no evidence to indicate that L suffered from a mental health condition of the severity required for the creation of a mental health crisis moratorium, or that she was receiving "*crisis, emergency or acute*" care or treatment, as required by the regulations.

- It was held that here was material irregularity under reg 17(2)(a) because L did not meet the eligibility criteria for a moratorium. Nor had she explored options to deal with the debt. The moratorium was cancelled.

- In the light of the history of the matter, the Judge also granted an injunction restraining L from making further applications for a moratorium for 2 months.

Kaye v Lees [2023] EWHC 758 (KB)

- K applied back to the Court to extend the injunction restraining L from making further applications for a moratorium.

- The application was refused. The regulations did not impose any restrictions on debtors making a fresh application for a MHCM after one was cancelled. It was for a debt advice provider to decide whether it is appropriate to apply for a moratorium

- However, the Judge (David Lock KC) considered the purposes of a moratorium. One of these was to devise a repayment plan for some or all of the debts. This factor should be part of the decision-making process when a debt advice provider considers whether a moratorium is appropriate.

- The Judge considered that the debt advice provider was obliged to scrutinise applications to ensure that they were only granted where appropriate. The regulations envisaged that a MHCM should only be granted where there is a mental health crisis, not merely routine mental health treatment.

Global 100 Ltd v Jimenes and others

- The issue in these appeals is: Are `property guardian' companies subject to mandatory licensing of their properties as HMOs under the HA 2004?

- Global 100 (G100) and Global Guardians Management Ltd (GGM) are companies which operate `property guardian' schemes

- The First-tier Tribunal had held that G100 and GGM had committed an offence of failing to license premises as an HMO and dismissed their appeals against civil penalty notices issued by Hounslow Council. The Tribunal also made rent repayment orders in favour of several former "guardians" who had lived in the properties.

- The Upper Tribunal dismissed the companies' appeals and they appealed to the Court of Appeal.

- The companies argued that:
  - the guardians' occupation was not "the only use of that accommodation", which is a requirement of the Standard Test for HMOs;
  - the Tribunals erred in finding that GGM had a tenancy of the property; and that G100 was a "person in control" which was in receipt of the rack rent.

Global 100 Ltd v Jimenes and others (2)

The Court of Appeal dismissed all three grounds of appeal:

- **Licensable as HMOs**
  It was apparent that the property guardians were using the property as their main residence, and that was the sole use. `Use' was different from the companies `purpose' or `intention' in deterring trespassers. The Standard Test for a HMO was satisfied.

- **`Person managing' the HMO: tenancy or licence?**
  This depended on whether GGM had a tenancy or licence from the freeholder. The written agreement used the language of a licence, but GGM had been given exclusive possession of the premises. They therefore had a tenancy, and they were a `person managing' the HMO

- **`Person in control' of the HMO: receipt of `rack rent'?**
  The CA held that receipt of the guardians' licence fees satisfied the test of a `rack rent'. G100 was therefore a `person in control'

Renters (Reform) Bill

- The Bill received its Second Reading on 23 October 2023.
- Committee stage began on 14th November.
- Part 1 of the Bill deals with tenancy reform. Its main provisions are:
  - Abolition of assured shorthold tenancies and of section 21 notices
  - All assured tenancies to be monthly periodic tenancies. It will no longer be possible to create a fixed term assured tenancy.
  - Rent can only be increased by means of a section 13 notice (which can be referred to the Tribunal, as now)
  - Permission to keep a pet: landlord's consent not to be unreasonably refused
  - Tenancy deposit schemes: non-compliance will be a bar to claiming possession, except on ASB grounds 7A and 14.
  - Where landlord has committed an offence of harassment or illegal eviction, LA may issue a fixed penalty notice up to a maximum of £30,000 in lieu of prosecution.

Renters (Reform) Bill (2)

- New or revised grounds for possession:

Mandatory grounds

- (Revised) Ground 1: Landlord requires property for occupation by them or by a family member
- (New) Ground 1A: Landlord intends to sell
- (Revised) Ground 6 (redevelopment/substantial works): Landlord can use ground even if they purchased property subject to tenancy
- (New) Ground 6A: Landlord requires possession to comply with enforcement action, eg prohibition order; improvement notice served because of overcrowding; landlord in breach of licensing requirements
- (Revised) Ground 8: non-payment that has arisen because of a delay in Universal Credit do not count towards 2 months' arrears
- (New) Ground 8A: `Repeated rent arrears': At least 2 months' rent was unpaid for at least one day on 3 or more separate occasions within the past 3 years

Renters (Reform) Bill (3)

Discretionary grounds

- (Revised) Ground 14: Behaviour “capable of causing” nuisance or annoyance” instead of” “likely to cause”…

- Part 2 of the Bill deals with the establishment of :

  - Compulsory landlords’ redress / Ombudsman scheme
  - Private rented sector database / rented property portal

- **Reform of court processes?**

  Government has stated that it will delay commencement of the legislation: “Implementation of the new system will not take place until we judge sufficient progress has been made to improve the courts. That means we will not proceed with the abolition of section 21 until reforms to the justice system are in place.” Proposed `reforms’ include digitising more of the court process; prioritisation of ASB cases; bailiff recruitment; early legal advice’ mediation and dispute resolution,

R (UO) v Redbridge LBC

- UO was a single parent with 3 children
- The children were at school in Tottenham, and the eldest was in year 6 preparing for SATS exams
- UO applied as homeless to Redbridge
- On the day before the family's eviction, the Council provided accommodation in a hotel with no cooking or laundry facilities, 1½ hours' journey from the school.

- The Council produced a Personal Housing Plan which made no reference to the family's actual needs
- They were moved 8 times in the next 4 months, at distances of between 1 and 2½ hours from the school
- UO asked for a review of suitability each time, but no reviews were ever carried out.
- February 2023: Council accepted the main housing duty and made two offers of accommodation in Peterborough, which UO declined because of the distance from her existing support networks and her reluctance to change schools in the middle of her eldest child's SATS year.

R (UO) v Redbridge LBC (2)

- Council discharged duty
- It considered that the family had no medical or other need to stay in London, and that the children were not at a key stage in their education.
- UO applied for judicial review.
- Council failed to comply with directions and were permitted to rely only on summary grounds of defence, with no evidence.

- UO succeeded on all grounds:
  - The Housing Needs Assessment (HNA) and Personal Housing Plan (PHP) were unlawful. The Council had failed lawfully to identify or assess the housing needs of UO and her children. The PHP was inadequately evidenced and reasoned.
  - Council had failed to conduct a lawful review of UO's housing needs and of the suitability of the accommodation offered. Their approach at each stage was "dismal".
  - The judge agreed to deal with suitability in the JR rather than in fresh proceedings. The Council's decisions concerning the suitability of both the hotels and the Peterborough accommodation were irrational.

- The Council had failed to show that it undertook any (let alone sufficient) inquiries into the effects of a move to Peterborough on the children's education..

R (YR) v LB Lambeth [2022] EWHC 2813 (Admin)

- Ms YR applied as homeless to Lambeth…
- … who provided interim accommodation in a 4 bedroom property in East Tilbury, Essex
- Her solicitors asked for the offer to be withdrawn, as it was too far from the children's schools in Lambeth, and YR would be socially isolated
- Lambeth replied that they considered the accommodation suitable
- Fearing that the Council would end their duty, YR accepted the accommodation…
- …but shortly afterwards moved back to stay with a friend in Lambeth.

- YR applied for judicial review, on the grounds that the Council had
  - failed to carry out a lawful assessment of the family's housing needs, to prepare a lawful personal housing plan, and/or to conduct a lawful review of its assessment
  - failed to have regard to the need to safeguard and promote the welfare of the children (s.11(2), Children Act 2004, and
  - breached its duty to provide suitable accommodation which was `so far as reasonably practicable' within the Lambeth area

- The Court had particular regard to:
  - the impact and disruption of the schooling of the 6 school age children
  - the loss of her Spanish-speaking friends and longstanding support networks
  - the impact on YR's ability to work and care for the children
  - the cost of travel between East Tilbury and Lambeth, and
  - the reduced opportunities for employment outside London for a Spanish speaker

R (YR) v LB Lambeth

Admin Court:

- Lambeth's housing needs assessment and personal housing plan were unlawful
- The initial s.189A assessment made no reference to the needs of the children or to the impact on their education which would result from moving to East Tilbury
- The Council's Suitability Assessment was inadequate to meet its duty to keep the housing needs assessment under review
- Lambeth's decision to regard the Essex accommodation as suitable was based on a flawed assessment and was otherwise irrational, including its failure to apply its own placement policy on out-of-area placements
- See also ***R (XY) v LB Haringey*** (2019): a lawful assessment should "set out the key needs … that would provide the `nuts and bolts' for any offer of accommodation".

R (Ahamed) v Haringey LBC

- Ms A was a single woman, a national of Somalia, who arrived in the UK in 2010
- August 2021: A was granted leave to remain and applied as homeless
- She suffered from high blood pressure, hearing impairment and Type 2 diabetes.
- Haringey accepted the relief duty, but did not consider that A was arguably in priority need.
- A accepted the offer of a single room with shared kitchen and bathroom facilities in a hostel

- The Council considered that it had discharged the relief duty, because A had suitable accommodation with a reasonable prospect that it would remain available to her for 6 months…
- … and decided that she did not qualify for the main s,193 housing duty because she was no longer homeless.
- The following month, A asked to be provided with alternative interim accommodation under s.188 HA 1996.
- The Council refused, and A applied for judicial review.

R (Ahamed) v Haringey LBC (2)

- A appealed against the refusal of permission for JR.
- She also sought A s 202 review of the suitability of the hostel accommodation, which was unsuccessful, and she appealed to the county court against that decision.
- Both appeals were heard together in the Court of Appeal.

- A's case on the JR was that, even if accommodation may be suitable as emergency accommodation for the purposes of the relief duty, that should not close off the other duties, because the accommodation may not be reasonable for her to continue to occupy in the longer term.

- Court of Appeal: It was necessary to consider, on the facts of each case, whether the applicant was (still) homeless. In A's case, the reviewing officer had accepted that she was disabled and had concluded that the accommodation was suitable for her, such that she was no longer homeless.
- The CA accepted that it could happen that a person might still be "homeless", and owed the main s.193 duty, even though their accommodation was suitable enough to end the relief duty, but that situation would rarely arise..

Secretary of State for Work and Pensions v AT

- AT was a Romanian national with a daughter now aged 5
- She had pre-settled status
- She fled an abusive and controlling relationship and was taken in by a refuge
- AT claimed Universal Credit, but was refused benefit as she was not exercising an EU qualifying right of residence
- She appealed to the First-tier Tribunal

- The Tribunal upheld her appeal, and the SSWP's appeal to the Upper Tribunal was dismissed
- Both Tribunals held that without an award of UC there was a violation of AT's right to live in dignified conditions, contrary to Article 1 of the Charter of Fundamental Rights of the European Union
- The SSWP appealed to the Court of Appeal

Secretary of State for Work and Pensions v AT (2)

The Secretary of State argued that:

- The Charter did not apply at all, following the UK's departure from the EU
- If it did apply, compliance with the Charter was achieved "in principle" by the UK in setting up a "statutory framework" of protection, notably under section 17 of the Children Act 1989
- And because of that framework the state could not be expected to carry out an individualised assessment in every case
- That the threshold for a breach of the Charter was high, and that threshold had not been met in AT's case

Secretary of State for Work and Pensions v AT (3)

The Court of Appeal rejected all four grounds of appeal:

- The Charter does apply to EU nationals with pre-settled status as a result of Article 13 of the Withdrawal Agreement and it continues to apply after the end of the transition period.

- Applying the decision of the CJEU in CG v Department for Communities in Northern Ireland (2021), an individual assessment is required in all cases. The system of other state provision presented by the SSWP did not seem capable even “in principle” of supporting a person in AT’s position. “Legal theory had to yield to reality”

- The UT had applied the correct threshold for intervention of a person’s “most basic needs”: “The provision of accommodation, such as access to a refuge, will not be treated as sufficient if it is merely temporary.”

Hodge v Folkestone and Hythe DC

- Ms H had a long history of serious mental health issues, including diagnoses of personality disorders, suicide attempts and hallucinations.
- In 2015, still aged under 18, she moved into a studio flat in a hostel run by Porchlight, a provider of supported accommodation.
- She signed a licence agreement for what was described as temporary supported accommodation with a view to moving into longer term accommodation. The agreement stated that the licence could be terminated on 7 days' notice.
- In August 2016, H left the Porchlight accommodation and spent the next few years sofa surfing with relatives and friends and sleeping in a car.

- In May 2021, she was pregnant and applied to the Council as homeless.
- The Council decided that she was intentionally homeless from Porchlight
- The decision was upheld on review and on appeal to the county court.
- H appealed to the Court of Appeal, on the basis that her room at Porchlight could not be regarded as "accommodation", as it was only intended to be temporary, like the women's refuge in ***Manchester City Council v Moran*** (2009).

Hodge v Folkestone and Hythe DC (2)

- The Court of Appeal referred to earlier authorities on the meaning of `accommodation', starting with ***R v Hillingdon LBC ex parte Puhlhofer*** (1986), in which Lord Brightman said:

"What is properly to be regarded as accommodation is a question of fact to be decided" by the LHA. "There are no rules. Clearly some places in which a person might choose or be constrained to live could not properly be regarded as accommodation at all; it would be a misuse of language to describe Diogenes as having occupied accommodation within the meaning of [the Act]".

The LHA has to ask whether an applicant for assistance "has what can properly be described as accommodation within the ordinary meaning of that word in the English language".

Diogenes' tub

Hodge v Folkestone and Hythe DC (3)

Court of Appeal:

- The issue was whether H had accommodation available to her, and whether it would have been reasonable for her to continue to occupy that accommodation.
- Whether it is reasonable to continue to occupy accommodation is a question of fact for the local authority to decide.
- It was not relevant to consider whether the accommodation was `settled'. It was not the case that an applicant can only be intentionally homeless from settled accommodation.
- Settled accommodation is only relevant when considering whether the `chain of causation' has been broken from an earlier intentionality decision.
- The Council were entitled to decide that it would have been reasonable for H to remain in the studio flat. She had access to support there, and had she stayed, she would have received an offer of secure accommodation.

Zaman v L B Waltham Forest

- Ms Z, a mother of three children aged 8, 7 and 4, was owed the main housing duty.
- She was dependent on support with childcare on her mother and sister, who lived locally, and also provided care for her mother.
- Waltham Forest offered her accommodation in Stoke, 160 miles away from where she had been living.

- Z refused the offer and requested a review of suitability. Her solicitor wrote in support:

  Our client's housing file tellingly contains no evidence that the Council sought accommodation any closer than Stoke on Trent. It is unclear whether efforts were made to secure accommodation in borough, or alternatively in a neighbouring borough or indeed in the whole of Greater London. It is difficult to imagine that, had such efforts been made, the Council would have been unable to find a suitable property in that entire area. Even if that were so, it simply defies logic that the Council could not secure accommodation closer than approximately three hours away in Stoke on Trent."
- The decision was upheld on review, and Z's appeal to the county court was dismissed.

Zaman v L B Waltham Forest (2)

- Z successfully appealed to the Court of Appeal.
- Her solicitor had discovered, via a FOI request, that over the previous two financial years, the Council had rehoused 121 homeless households in Stoke-on-Trent.
- The Court of Appeal noted that if it was not reasonably practicable to offer in-borough accommodation, a council was obliged to try to place the applicant as close as possible to where they had previously lived.
- The Council had not offered any explanation for the fact it had made so many `out of borough' offers in Stoke-on-Trent "when common sense indicates that it should normally have been possible to obtain accommodation closer to the borough"
- Nor had the Council explained why it had not followed its own Accommodation Acquisitions Policy, which stated that "all properties procured under the policy will be as close to the borough as is reasonably practicable".

Webb-Harnden v L B Waltham Forest

- WH was a mother of three children who had lived in London all her life.
- The Council accepted the main housing duty to her under s.193, HA 1996
- and offered her an assured shorthold tenancy in Walsall.
- WH requested a review of suitability, but the decision was upheld.
- The reviewing officer considered that the authority did not have a suitable 3-bedroomed property available for WH in or near London…
- but, in any event, she would have been unlikely to be able to afford such a property as she was subject to the benefit cap.

- The Council's policy states:

  "Households in receipt of welfare benefits may be subject to restrictions on the amount of benefits they can receive, which may affect their ability to pay rent. … If the benefit restrictions (cap) makes properties in Waltham Forest and London unaffordable. then they will not be regarded as suitable."

- WH's appeal to the county court was dismissed, and she appealed to the Court of Appeal.

Webb-Harnden v L B Waltham Forest

- WH appealed on the ground that "*The Respondent breached s. 149(1) of the Equality Act 2010 (the Public Sector Equality Duty (PSED) by failing to consider the discriminatory impact of moving the Appellant and/or single parent (female) households out of borough due to being impacted by the benefit cap.*"

- She argued that the Council could have sought to perform its s.193 duty by other means, such as providing temporary accommodation which would not be subject to the benefit cap.

- Appeal dismissed. Lewis LJ rejected the argument that the Council used the fact that a homeless applicant was subject to the benefit cap as a means of determining whether accommodation would be provided in London or not. The Council's policy simply referred to the benefit cap as a factor in assessing affordability.

- The reviewing officer had been well aware of the PSED. It was for the Council to decided how to perform its duty, and there was no obligation to provide temporary accommodation, even though that would avoid the application of the benefit cap. "*That is not the purpose of section 149 and is not what the section requires.*"

R (Jaberi) v City of Westminster

- J and his family were living in temporary accommodation provided by the Council under the main housing duty.
- He was awarded 150 points under the Council's allocation scheme on account of being in the homeless priority group.

- Medical priority, under the scheme, would confer 200 points. However, the scheme excluded homeless applicants from having medical priority points.
- J argued that, in the light of his disabilities and medical needs, he should have been awarded the 200 points given to those in the medical priority group.

- J applied for judicial review of the Council's allocation policy.
- He argued that the policy was unlawful in that it denied him priority on the basis of his medical need, restricting him to a lesser `reasonable preference' on the basis of homelessness.

- In the case of *Ahmad v LB Newham* (2009) the House of Lords held that local authorities are not required to frame their scheme to afford greater priority to applicants who fall within more than one reasonable preference category over those who have reasonable preference on a single basis.

R (Jaberi) v City of Westminster (2)

- J's application for judicial review was dismissed.
- It was not unlawful to award fewer points to priority homeless than to priority medical need applicants
- Steyn J. said:

*"At first glance, it may appear incongruous that a person who has a medical need to move will be given fewer priority points if they have the **additional** misfortune of being homeless and in temporary accommodation. However, on analysis, the approach taken by the defendant is clearly a rational one. It is proper for the defendant to proceed on the basis that if it owes an applicant a duty to secure suitable temporary accommodation, it will comply with that duty… I accept that, given the well known shortage of social housing, they are likely to be provided with suitable temporary accommodation considerably earlier than suitable Part VI accommodation would be made available to them."*

Khayyat and Ibrahim v Westminster City Council

- The Council's allocations policy provided that only those who were owed the main housing duty under section 193 HA 1996 could be placed on the housing register.

- Under the policy, those who were statutorily homeless but not owed the full duty could not join the register.
- This was despite the requirement under s166A that reasonable preference for allocations must be given to "people who are homeless (within the meaning of Part 7)", ie those who are homeless as defined by the Act, not only those who have had the main duty accepted.

- The Council argued that its policy admitted a significantly large proportion of homeless applicants (at least 30%), so that the scheme could not be said to frustrate the purpose of s166A.

- Eyre J. held that the policy was unlawful:

  "*The Scheme clearly operates as a redefinition of the statutory scheme because it strikes through parts of section 166A(3) with the effect that no homeless person other than one with a priority need (and who is thereby the subject of the Main Housing Duty) is to be given a reasonable preference by being placed on the Register*."

- The Council agreed to review its allocation policy.

R (TX) v Adur DC

- Ms TX was homeless from her tenancy in Brighton as a result of domestic abuse.
- Adur DC accepted the main housing duty to her and she applied to join their housing register
- TX did not meet the local residence requirements for Adur's allocation scheme, but the policy did allow those with an overriding need to live in the area to go onto the housing register, but only into bands C or D.
- TX was placed in Band C.

- TX argued that the policy gave rise to unlawful indirect discrimination, contrary to section 19 of the Equality Act 2010, since women were overwhelmingly more likely to be victims of domestic abuse, and therefore more likely to be excluded from the higher priority bands in these circumstances.
- The Council argued that, looked at as a whole, the policy did not discriminate; but if it did, then such discrimination was proportionate and justified.

- TX applied for judicial review.

R (TX) v Adur DC (2)

- TX's application was upheld.

- The judge, Margaret Obi, said:

  "*The Claimant returned to live in the Defendant's area because she was fleeing domestic abuse from another local authority area. This leads to a particular disadvantage because the Claimant, notwithstanding that she is entitled to a reasonable preference because she is owed the main housing duty under section 193(2) of the Act, is limited to Bands C or D and therefore less likely to obtain an allocation of social housing. I am satisfied that the Claimant has established a sufficient causal link between her protected characteristic of sex and the application of the qualification criteria*."

- The Council argued that the policy was justified because to priorities TX would have a huge impact on other applicants and the Council was best placed to prioritise housing needs. But there was no evidence that the Council had addressed the effect of its policy on women fleeing domestic abuse from outside the area: *"It is not for the court to fill in the gaps."*

R (Campbell) v L B Ealing

- C was partially sighted and also suffered from OCD and depression. He had eligible care and support needs for the purposes of the Care Act and been accommodated by social services since being evicted for rent arrears in 2016.

- In 2022, the Council became aware that C had rejected a number of properties offered to him from the housing register. They decided to cease funding the accommodation on the basis that C had not pursued opportunities to secure permanent alternative accommodation. C challenged the withdrawal of funding.

- The Council contended that it had no duty to provide accommodation under the Care Act because he was eligible for housing assistance under Parts 6 and 7, Housing Act 1996.

- Judge O'Connor agreed. Section 23 of the Care Act states that a local authority *"may not meet needs under section 18 to 20 by doing anything which it is required to do under the Housing Act 1996*". The Council had no duty or power to meet C's housing needs.

shelter.org.uk