

ARTIFICIAL INTELLIGENCE: REGULATORY ISSUES

MICHAEL STACEY
4 JUNE 2025

Background facts

- C became homeless in July 2023. LA decided he did not have priority need. Decision reviewed and upheld. Appeal to County Court heard on 1 August 2024, decision quashed.
- C had serious health issues supported by medical evidence. Having spent a month in emergency accommodation he slept on park benches and sofa surfed. Heart attack in July 2024 and was suicidal.
- JR of failure to provide accommodation under section 188(3) of the Housing Act 1996, issued 19 August 2024.
- Permission granted and interim housing order made October 2024.
- D failed to file AoS or Grounds of Resistance, as ordered so could not participate in hearing unless Court granted relief from sanctions.
- New lawyer at LA February 2025, asked C for copies of 5 cases cited in SFG as couldn't locate and accused C of misleading submission that s.188(3) is mandatory not discretionary. C's lawyers apologised re citations but no proper explanation given.
- D made wasted costs application against Law Centre and Counsel.

The hearing

- Agreement reached on substance of the day before the hearing – C accommodated by D
- At hearing on 3 April 2025, Ct refused relief from sanctions and ordered D to pay C's costs. £21k claimed, summarily assessed at £13k.
- Wasted costs application granted. £2,000 to be paid by Law Centre and £2,000 by Counsel personally.
- Following wasted costs order, costs of JR revisited and reduced by £7,000 to £6,500 in total.
- D required to send transcript of hearing to BSB and SRA.
- Subsequently referred under *Hamid* jurisdiction to Divisional Court.

RC

3

The fake cases

Ground 1

"In R (on the application of El Gendi) v Camden London Borough Council [2020] EWHC 2435 (Admin), the High Court emphasised that failing to provide interim accommodation during the review process undermines the protective purposes of homelessness legislation. The court found that such a failure not only constitutes a breach of statutory duty but also creates unnecessary hardship for vulnerable individuals. The respondent's similar failure in the present case demonstrates a procedural impropriety warranting judicial review"

Ground 2

"Moreover, in R (on the application of Ibrahim) v Waltham Forest LBC [2019] EWHC 1873 (Admin), the court quashed the local authority decision due to its failure to properly consider the applicant's medical needs, underscoring for necessity the careful evaluation of such evidence in homelessness determinations. The respondent's failure to consider the appellant's medical conditions in their entirety, despite being presented with comprehensive medical documentation, renders their decision procedurally improper and irrational"

RC

4

The fake cases

Ground 3

- “The appellant’s situation mirrors the facts in *R (on the application of H) v Ealing London Borough Council* [2021] EWHC 939 (Admin) where the court found the local authority’s failure to provide interim accommodation irrational in light of the appellant’s vulnerability and the potential consequences of homelessness. The respondent’s conduct in this case similarly lacks a rational basis and demonstrates a failure to properly exercise its discretion”

Ground 4

- “The respondent’s failure to provide a timely response and its refusal to offer interim accommodation have denied the appellant a fair opportunity to secure his rights under the homelessness legislation. This breach is further highlighted in *R (on the application of KN) v Barnet LBC* [2020] EWHC 1066 (Admin) where the court held that procedural fairness includes timely decision-making and the provision of necessary accommodation during the review process. The respondent’s failure to adhere to these principles constitutes a breach of the duty to act fairly”.



5

The fake cases

Ground 4 (cont...)

- “The appellant’s case further aligns with the principles set out in *R (on the application of Balogun) v London Borough of Lambeth* [2020] EWCA Civ. 1442 — where the Court of Appeal emphasise that local authorities must ensure fair treatment of applicants in the homelessness review process. The respondent’s conduct in failing to provide interim accommodation or a timely decision breaches the standard of fairness”.

Ritchie J said:

“Ms Forey had moved on from fake High Court cases to fake Court of Appeal cases. I have no difficulty with the submission that the Respondent local authority had to ensure fair treatment of applicants in the homelessness review process, but I do have a substantial difficulty with members of the Bar who put fake cases in statements of facts and grounds.”



6

The Law Centre's response

*"We regret to say that we still do not see the point you are making by correlating any errors in citations to the issues addressed in the request for judicial review in this matter. Admittedly, there could be some concessions from our side in relation to any erroneous citation in the grounds, which are **easily explained and can be corrected on the record if it were immediately necessary to do so**. What you have not done is to refute the veracity of the points and legal arguments that prevailed against your position and any failures of your client to measure up to its obligations under the 1996 Act."*



[slide title]

7

The Law Centre's response (2)

*"So let us agree that the citation errors can be corrected on the record ahead of our April hearing. Apart from adding our deepest apologies, we do not consider that we are obliged to explain anything further to you directly. You may better serve your organisation by giving attention not to the normative discoveries you have made, but **whether you can locate the authorities in support of the points raised**, which points you are clearly in agreement with, as demonstrated both by conduct in offering the necessary relief to our client and acting in accordance with the mandate of your client.*

*We hope that you are not raising these errors as **technicalities** to avoid undertaking really serious legal research. Treating with citations is a totally separate matter for which we will take full responsibility. It appears to us improper to barter our client's legal position for **cosmetic errors** as serious as those can be for us as legal practitioners."*



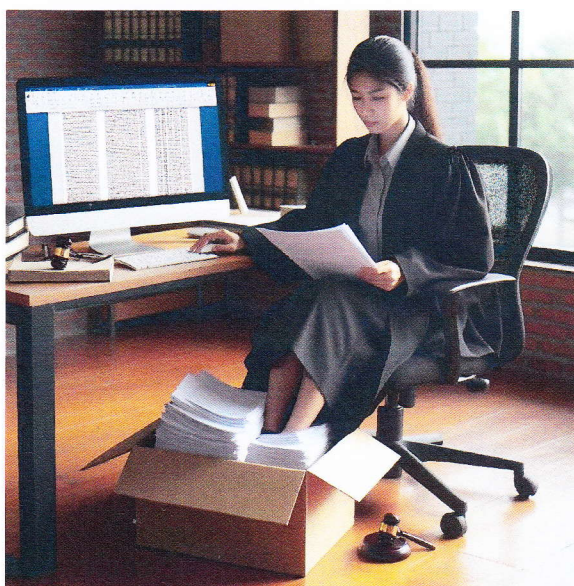
8

Counsel's explanation at the hearing

53. What I was told from the Bar today by Ms Forey is that she kept a box of copies of cases and she kept a paper and digital list of cases with their ratios in it. She dragged and dropped the case of *El Gendi* from that list into this document. I do not understand that explanation or how it hangs together. If she herself had put together, through research, a list of cases and they were photocopied in a box, this case could not have been one of them because it does not exist. Secondly, if she had written a table of cases and the ratio of each case, this could not have been in that table because it does not exist. Thirdly, if she had dropped it into an important court pleading, for which she bears professional responsibility because she puts her name on it, she should not have been making the submission to a High Court Judge that this case actually ever existed, because it does not exist. I find as a fact that the case did not exist. I reject Miss Forey's explanation.

RC

9



RC

10

Ritchie J's findings

- The cases are fake
- The behaviour of Counsel and the Law Centre was improper and unreasonable: *"it is the responsibility of the legal team, including the solicitors, to see that the statement of facts and grounds are correct. They should have been shocked when they were told that the citations did not exist. Ms Forey should have reported herself to the Bar Council. I think also that the solicitors should have reported themselves to the Solicitors Regulation Authority. I consider that providing a fake description of five fake cases, including a Court of Appeal case, qualifies quite clearly as professional misconduct"*



11

Ritchie J's findings (2)

- *I find as a fact that Ms Forey intentionally put these cases into her statement of facts and grounds, not caring whether they existed or not, because she had got them from a source which I do not know but certainly was not photocopying cases, putting them in a box and tabulating them, and certainly not from any law report. I do not accept that it is possible to photocopy a non-existent case and tabulate it. Improper and unreasonable conduct are findings about which I am sure. In relation to negligence I am unsure but I consider that it would fall into that category if Ms Forey obtained the text from AI and failed to check it.*



12

Ritchie J's findings (3)

- When [the Defendant raised] the point, what response did the Claimant's lawyers provide? To say that the citations could easily be explained. I ask rhetorically: is that a professional way forwards for solicitors of the Supreme Court who have produced fake cases, or who have not spotted that counsel has produced fake cases? Then when they are shown that counsel has produced fake cases, they say: "it can be easily explained". Well, it has not been explained easily before me. The solicitors hid behind their letters, which I find were unprofessional. These were not cosmetic errors, they were substantive fakes and no proper explanation has been given for putting them into a pleading. This questions and answer session led to causation of loss and the costs in February of 2025. I have been through the correspondence. I think it was wholly proper for the Defendant not only to raise the matter but to ask for an explanation and then to issue a wasted costs application. This sort of behaviour should not be left unexposed. It undermines the integrity of the legal profession and the Bar.*
- He criticised the "appalling professional misbehaviour of the Claimant's solicitors and the barristers in relation to the fake citations and the way, when those were raised, that they tried to finesse them into being "minor citation errors". **I consider that it is self-evident that both counsel and solicitors should never knowingly mislead the court.** Producing submissions based on fake cases is misleading the Court. The justice of the case requires me to make a wasted costs order and I shall do so."*



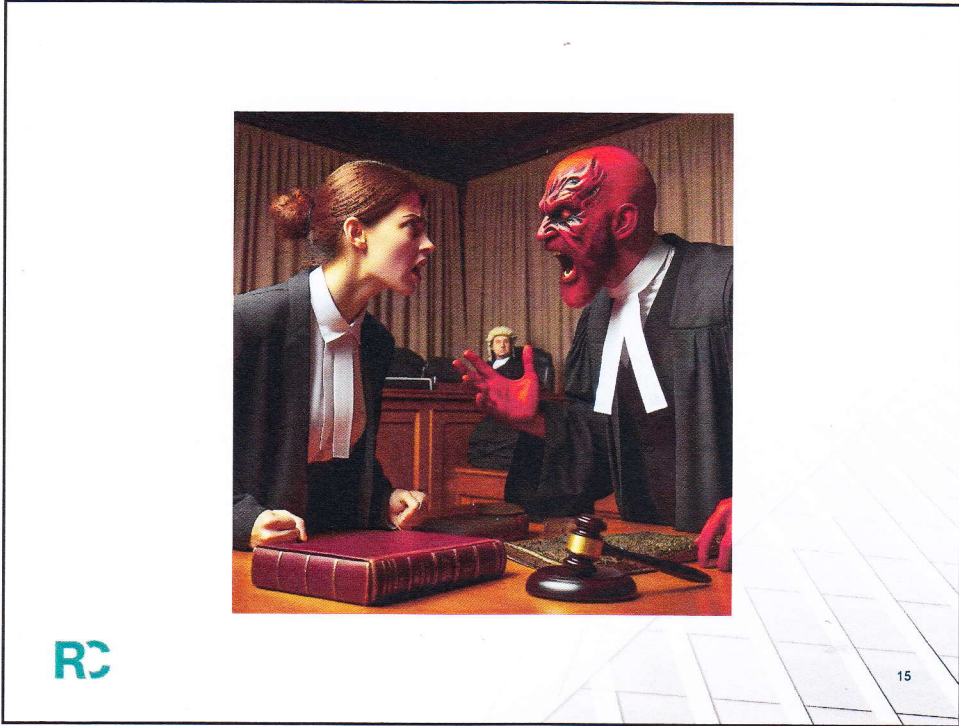
13

Issues

- Failure to check authorities
- Failure to provide proper explanation
- Failure to admit errors
- Supervision of Counsel
- Ability of solicitors to rely on Counsel



14





Potential consequences

- Professional misconduct
 - Manifest incompetence
 - Undermining the proper administration of justice
 - Lack of integrity
- Contempt of Court
- Professional negligence

Other cases

- *Alharoun v Qatar National Bank* (case number CL-2024-000435)
- *Bandla v SRA* [2025] EWHC 1167 (Admin)



19

Duty to the Court

- Lord Hoffmann in *J.S. Hall v Simons* [2002] 1 AC 615:

"Lawyers conducting litigation owe a divided loyalty. They have a duty to their clients, but they may not win by whatever means. They also owe a duty to the court and the administration of justice. They may not mislead the court or allow the judge to take what they know to be a bad point in their favour. They must cite all relevant law, whether for or against their case. They may not make imputations of dishonesty unless they have been given the information to support them. They should not waste time on irrelevancies even if the client thinks that they are important. Sometimes the performance of these duties to the court may annoy the client. So, it was said, the possibility of a claim for negligence might inhibit the lawyer from acting in accordance with his overriding duty to the court. That would be prejudicial to the administration of justice."



20

Duty to the Court (2)

In *Brett v SRA* [2014] EWHC 2974, Lord Thomas CJ said:

- 111.** *The reason why that is so important is that misleading the court is regarded by the court and must be regarded by any disciplinary tribunal as one of the most serious offences that an advocate or litigator can commit. It is not simply a breach of a rule of a game, but a fundamental affront to a rule designed to safeguard the fairness and justice of proceedings. Such conduct will normally attract an exemplary and deterrent sentence. That is in part because our system for the administration of justice relies so heavily upon the integrity of the profession and the full discharge of the profession's duties and in part because the privilege of conducting litigation or appearing in court is granted on terms that the rules are observed not merely in their letter but in their spirit. Indeed, the reputation of the system of the administration of justice in England and Wales and the standing of the profession depends particularly upon the discharge of the duties owed to the court.*
- 112.** *Where an advocate or other representative or a litigator puts before the court matters which he knows not to be true or by omission leads the court to believe something he knows not to be true, then as an advocate knows of these duties, the inference will be inevitable that he has deceived the court, acted dishonestly and is not fit to be a member of any part of the legal profession.*



21

Speaker



Michael Stacey
Partner

 020 8394 6448

 michael.stacey@russell-cooke.co.uk

 <https://www.linkedin.com/in/michael-stacey-solicitor/>



[slide title]

22