



Practice

"Sensibly, in clear and forceful submissions of the highest quality, Mr Knafler QC [submitted that.....]" (AH (Afghanistan v Secretary of State for the Home Department [2011] EWCA Civ 1284).

Stephen specialises in public law but also undertakes commercial, family and criminal law cases that have public law issues. He advises and represents individuals, local authorities, health bodies, commercial and statutory organisations, regulators, carers and care homes and agencies.

Stephen has appeared as an advocate at all levels of the judicial system, including the Court of Appeal, the Supreme Court, the European Court of Human Rights and the Court of Justice of the European Union. He has appeared in over 200 reported cases. Many of these are landmark decisions relevant to community care, immigration, detention, discrimination, health and mental health, asylum support, social security, prisons, education, public authority negligence, human rights, civil liberties and housing. Stephen has also represented a number of clients in high value and/or sensitive mediations in immigration, health, local authority and community care cases.

In addition to his advocacy work, Stephen also advises on adult and child social care policy and eligibility criteria; housing policy; continuing NHS care disputes; local connection and other inter-authority disputes; care home, day centre and hospital closures; adult and child protection; charging, registration, disciplinary and regulatory matters; contractual disputes; procurement decisions; education issues; mental health; freedom of information and confidentiality; supporting people, supported housing and related benefits issues; the refusal of NHS healthcare, including in relation to new drugs; local authority powers, finances and investments; disputes with the LGO and Audit Commission.

While Stephen has appeared in a large number of high profile and often fiercely controversial cases his approach is essentially pragmatic and is directed at getting the most suitable, cost-effective result possible for the particular client, based on a careful appraisal of the facts and the client's needs, frank and objective advice about the law and related practical issues, and a reasonable approach to the other parties.

In the last few years, the range and also the importance of Stephen's cases has continued to develop. He has advised and represented in many cases involving the immigration detention of adults and minors (including successful representation in a test case on exemplary damages), deportation, fast track, language analysis, family life cases, Dublin II cases (now pending in the CJEU) and asylum. He has also provided advice and representation to the principle defendant in a case involving a major commercial fraud of over £65m, to local authorities in dispute with the Audit Commission in relation to investments in failed Icelandic banks and in commercial music business disputes, social care and legal aid procurement, negligence and Convention breaches on the part of a health and social services authorities resulting in multiple deaths and serious injury, the operation of domestic violence refuges, the government's post office closure scheme, test cases relating to the withdrawal of residential warden services, the provision of health care to persons from abroad, trafficking, a major

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Education

MA (Cantab), former solicitor to 1993, admitted 1988

Practice Areas:

Stephen Knafler QC is a member of the following Practice Areas:

- Civil Law
- Claims Against The Police & Public Authorities
- Commercial Law
- Community Care
- Court of Protection
- Employment, Discrimination and Professional Regulation
- Extradition Law
- Family
- Fraud and Regulatory Law
- Gypsy & Traveller Rights
- Housing
- Immigration - Asylum and Human Rights
- Immigration - Business and Private
- Inquests
- International Advice and Litigation
- Mediation
- Mental Health
- Planning & Environmental Law
- Prison Law
- Public & Administrative Law
- Welfare Benefits



inquiry into the provision of health and social care services to persons with learning disabilities, the provision of mental health aftercare services by local authorities, supported housing schemes, insurance-backed social care schemes, homelessness, care home contracts and fees, community care policy changes, prisoner's rights, council tax, war crimes, occupation protests and on many other similar issues.

In recent years, Stephen has represented Shelter, the Medical Foundation for the Care of Victims of Torture, the Women's Aid Federation of England and others on a pro bono basis in the Court of Appeal and the Supreme Court.

Stephen is ranked in the Legal 500 and Chambers UK Guide as a leading barrister in human rights, social housing and administrative law, where he is described by solicitors and other barristers as:

- "A lawyer who grasps the essential elements and puts them across to the Bench in simple terms, he is loved by judges"
- "is tremendously intelligent, and has the ability to get on top of complex cases really quickly"
- "sources note his exceptional cross-examination skills and describe him as "approachable, calm and reassuring"
- "an "attractive advocate" with a "very calm and questioning approach"
- "he just devours information and seizes on the killer points immediately, making his speed of turnaround unmatched"
- "a brilliant advocate who works extremely hard and to a very demanding standard"
- "before his appointment [as a QC] he was the best social welfare public law junior in the business"
- "his long list of reported cases speaks for itself"
- "having had a major impact on the law"
- "a deep thinker and a highly creative lawyer"
- "quick and efficient"
- "a rising star"
- "an absolutely fantastic advocate"
- with "fantastic advocacy, which hinges on his sheer ability to put a point across clearly"
- "especially recognised for his excellence in housing and social welfare matters"
- "particularly well-known for his work in housing, community care and asylum support"
- "the first-choice junior for many solicitors when it comes to housing-related judicial reviews, particularly those that touch on particularly tricky points. He has earned this status due to "his prolific output and flawless judgement," and solicitors and clients appreciate the "clear and practical advice" on offer from a barrister who "turns work around quickly and doesn't sit on the fence"
- "clearly a leading lawyer in health and community care issues. He is praised for his "excellent, comprehensive knowledge"
- "legally rigorous but able to put his cases in a moderate, non-inflammatory way"
- "He is particularly well respected in the Administrative Court, where judges respect him and are reported to adopt his skeleton arguments. Clients appreciate his "clear, practical advice and fast turnaround," describing him

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as "incredibly hard-working and efficient under pressure"

- "His "helpful and reasonable approach" to working with others has won him a lot of friends"
- "Stephen Knafler has a fantastic reputation: "His long list of reported and successful cases speaks for itself," say sources, while clients value his "responsiveness, diligence, attention to detail and efficiency"
- "has a fantastic reputation in community care and health-related human rights challenges"

Publications

General editor of the Community Care Law Reports (LAG); Support for Asylum Seekers (LAG) 2001 (1st edition), 2004 (2nd edition) and 2009 (3rd edition); Contributor to De Smith, Woolf and Jowell: Judicial Review of Administrative Action (Sweet and Maxwell, 1996); author of Remedies for Disrepair and other Building Defects (Sweet and Maxwell, 1996); Co-author of Disrepair: Tenants' Rights (LAG, 3rd edition, 1999). Articles in Legal Action and Solicitors' Journal.

Other Information

Seminars for, inter alia, Legal Action Group, Housing Law Practitioners' Association, judicial organisations, Community groups, Central Law Training and Public Law Project.

Runner up Times/Liberty Human Rights Award 1997 and 2003.

Runner up Legal Aid Barrister of the Year 2005 and 2006.

Stephen is a trustee and secretary of Kisakye Children's Trust, a trust which has built a hospital, with outreach services, for children with AIDS in Uganda.

Stephen is a member of the Law Commission's panel of expert advisers on adult social care reform.

Some Notable Recent Cases

Peart v Secretary of State for the Home Department [2012] EWCA Civ 568: deportation appeal allowed on the basis that the immigration judge had failed to properly consider the appellant's child's best interests, failed to consider the best interests of all family members cumulatively and in the round and had failed to give the appellant credit for evidence of positive change.

R (Marrache) v The Judicial Service Commission for Gibraltar (25 April 2012): proceedings settled and issued in the Supreme Court of Gibraltar against The Judicial Service Commission for Gibraltar, arising out of the Commission's failure to investigate complaints about the judicial conduct of senior members of the judiciary and prosecuting authority, following the collapse of Marrache & Co.

R (Sabiri) v Croydon LBC (23 April 2012): section 23C(4)(b) and section 24B of the Children Act 1989 were sufficiently wide to cover assistance by way of financial contributions towards the cost of renting accommodation near the place where a former relevant child was, or would be, receiving education or training and the contribution could be 100% of the cost.



John Reeves (listing officer) v Northrop [2012] EWHC 215 Admin: the Valuation Tribunal for England had failed to give sufficient weight to the duration of occupancy as an important factor when deciding whether the respondent's occupation of a moored boat had been sufficiently permanent for the purposes of entering the boat as a dwelling in the Council Tax Valuation List (appeal pending).

R (Broadway Care Centre Ltd) v Caerphilly CBC [2012] EWHC 37 Admin: the court dismissed the care home owner's application for permission to apply for judicial review of the council's decision to terminate its framework contract for the provision of residential care at one of its care homes, because of inadequate care provision (the court gave permission for the judgment to be cited). The court held that it was not arguable that (1) the owner was entitled to bring public law proceedings (cf. a private law contract action), (2) the owner was entitled to rely on alleged breaches of public law/ECHR duties owed by the council to care home residents, (3) the council (in any event) had been in breach of any alleged public law duty owed to the residents, (4) the council had breached the owner's rights under Article 1 of the 1st Protocol ECHR.

Sun Street Properties v Smith and others [2011] EWHC 3432 (Ch): the claimant's possession order had been obtained with proper notice to the protestors occupying the UBS-owned office complex. However, the order would not be set aside *ex debito justitiae*. The court nowadays had a discretion to exercise under the CPR. The possession order was allowed to stand because the protestors' rights under Articles 10 and 11 ECHR would not outweigh the claimant's property rights. Permission to appeal to the Court of Appeal was granted, and a stay of execution, and the case then settled.

Fairer Fees Forum v Staffordshire CC CO/6993/2011: proceedings challenging the council's decision not to increase its standard rate of charges for care home fees were settled with no order as to costs.

Doncaster Care Home Association and others v Doncaster MBC [2011] EWHC Admin (CO/4785/2011): the court dismissed the application for a judicial review of the council's decision to reduce standard care home fees by 2% because the claimants had consistently failed to join the council's sub-group set up to review fee levels, without good reason.

GF (Sudan) v Secretary of State for the Home Department C5/2010/2555: an appeal brought to establish that GF (a leading member of JEM) was not excluded from protection as a refugee on the ground that he was a war criminal were settled when the Secretary of State withdrew her original decision that GF was a war criminal, shortly before the appeal hearing.

R (MA, BT, DA) v Secretary of State for the Home Department [2011] EWCA Civ 1446: The Court of Appeal referred the case to the Court of Justice of the European Union, to determine whether unaccompanied minor asylum seekers could ever be removed under Dublin II to the Dublin State where they first claimed asylum. The Court of Appeal also doubted whether the Nasser presumption applied to unaccompanied minors and whether "cogent reasons" were required, to doubt the quality of welfare conditions likely to apply, before the Secretary of State was obliged to consider whether reception conditions in a Dublin II receiving State were such that it would safeguard and promote the welfare of a child to be removed there, pursuant to section 55 of the Borders, Citizenship and



Immigration Act 2009.

Bubb v Wandsworth LBC [2011] EWCA Civ 1285: in an appeal under section 204 of the Housing Act 1996, the judge was not required to determine whether or not, on the facts, the applicant had received the information required to be provided to her by section 193(7) and (7A). That was a matter for the local authority, subject to a challenge on Wednesbury grounds (albeit that the level of scrutiny required was relatively careful). Ms Bubb is seeking permission to appeal to the Supreme Court.

SH (Afghanistan) v Secretary of State for the Home Department [2011] EWCA Civ 1284: Fast Track immigration hearings must be adjourned, and if necessary, taken out of the Fast Track, in order to allow a party to answer the case against him by way of evidence (e.g. to secure his own social work report on age, in an age dispute case). The First Tier Tribunal's failure to do so had been unlawful and the Upper Tribunal had also acted unlawfully, by dismissing the appeal on the basis that the FTT had not acted irrationally and that new evidence was not likely to have made a difference (and not applying the "pointlessness test").

Bah v United Kingdom (Application No. 56328/07, 27th September 2011): it was discrimination on the ground of personal status, for the purposes of Articles 8 and 14 of the Convention, to refuse to treat a person with ILR as having a "priority need" for housing under Part 7 of the Housing Act 1996, on the ground that her child was subject to immigration control. However, the discrimination was justified in order to fairly allocate scarce resources.

R (SL) v City of Westminster [2011] EWCA Civ 954: weekly monitoring by a care co-ordinator as well as some help by voluntary sector counselling groups and a befriender amounted to the provision of "care and attention" for the purposes of section 21 of the National Assistance Act 1948; care and attention was not "otherwise available", otherwise than by the provision of residential accommodation, because "care and attention is not "otherwise available" unless it would be reasonably practicable and efficacious to supply it without the provision of accommodation.

R (Ako and others) v Secretary of State for the Home Department (CO/5798/2011) 21st June 2011: Bean J granted an injunction at an opposed oral hearing restraining the Secretary of State from removing to Iraq by charter flight any of the named 49 failed asylum seekers before the Court, subject to removal directions relating to that flight, and a further 17 un-named failed asylum seekers, whose cases were not before the Court, but whom the Court dealt with on a representative action basis.

Re E (Children) v SE and others [2011] UKSC 27, [2011] 2 WLR 1326: on a proper application of the Hague Convention on the Civil Aspects of International Child Abduction 1980 the best interests of the child were the primary consideration. However, that did not require a full-blown examination of the child's future and there was no need for Article 13(b) of the Convention to be narrowly construed.

R (Buckinghamshire CC) v Kingston upon Thames RBC [2011] EWCA Civ 457: Buckinghamshire had asserted that Kingston was under a legal duty to consult with Buckinghamshire before providing community care assistance, which resulted in a care home resident moving into supported housing in the



Buckinghamshire area and, consequently, becoming Buckinghamshire's responsibility. Dismissing Buckinghamshire's appeal, the Court of Appeal held that the statutory context compelled the conclusion that Kingston's only duties related to the welfare of the community care service user herself, who had wanted to live in Buckinghamshire. The case contains an interesting examination of the limits of the duty to consult based simply on fairness or detriment. Buckinghamshire have not sought to appeal further.

PM (Nicaragua) v Secretary of State for the Home Department

(C5/2010/2672): the issue was whether PM's appeal to the Upper Tribunal and then to the Court of Appeal had been "abandoned" when she travelled from the UK to Nicaragua, on the ground that section 104(4) of the Nationality, Immigration and Asylum Act 2002 applied: "An appeal under section 82(1) brought by a person while he is in the United Kingdom shall be treated as abandoned if the appellant leaves the United Kingdom". It was argued that "an appeal under section 82(1)" did not include an appeal to the Upper Tribunal or the Court of Appeal, under sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 and, in the alternative, that "leaves" means "leaves permanently". Shortly before the hearing the Secretary of State conceded the appeal.

Scott v Secretary of State for Work and Pensions [2011] EWCA Civ 103: a nun whose maintenance was ostensibly provided by a religious order that was also a charitable trust was "fully maintained" by her order and as such was not entitled to pension credit, even though the order was unable to maintain the nun except by virtue of the sums generated by the nun's own efforts and even though the nun had become too frail to continue to work at the same level.

Yemshaw v Hounslow LBC [2011] UKSC 3: "domestic violence" in Part 7 of the Housing Act 1995 included threatening or intimidating behaviour, or psychological abuse, that might give rise to the risk of harm.

R (BT and others) v Secretary of State for the Home Department [2010]

EWHC 3572 Admin: it was lawful to remove unaccompanied asylum-seeking children under Dublin II to the State where they first claimed asylum, and otherwise than for the purposes of family reunion; States were not always required to ascertain and consult about child-specific reception arrangements. The children are appealing to the Court of Appeal.

Bilgili v Paddington Churches Housing Association [2010] EWCA Civ 1341: the landlord was liable for condensation damp and mould, under section 11 of the Landlord and Tenant Act 1985, because its removal of metal windows and extract ventilation, and its installation of UPVC sealed window units, had caused those problems.

Gold National Events Limited v Manchester CC Manchester High Court

Mercantile Court, 14 July 2010: judgment for damages to be assessed awarded to GNEL. The Council's cancellation of the 2008 Bob Marley Music Festival had been in breach of contract and not warranted by the Platt Fields Park Bye-Laws or the Licence conditions (incorporated into the contract).

R (Booker) v NHS Oldham/Direct Line PLC [2010] EWHC 2593 (Admin): it was unlawful and irrational for a PCT to decide to withhold medical treatment on the ground that the patient was entitled to damages from the insurance company of the tortfeasor who caused her injuries to pay for such treatment.

MS (Somalia) v Secretary of State for the Home Department [2010] EWCA



Civ 1236: a "family member" refugee did not have the same status as an "original application" refugee, for the purpose of being entitled to further family reunification of their own under the Immigration Rules.

HM (and others)(Article 15(c)) Iraq CG [2010] UKUT 331 (IAC): country guidance case on returns to Iraq.

R (Buckinghamshire CC) v Kingston RBC, SL and the NSE [2010] EWHC 1703: a local authority which, following an assessment under section 47 of the National Health Service and Community Care Act 1990 had moved a person for whom it was financially responsible into private accommodation in the area of another local authority owed no general duty to act fairly towards the second local authority, either in carrying out its assessment or before making any decision consequent on it, even though the consequence was that the second authority became financially responsible for the person concerned.

FA (Iraq) v Secretary of State for the Home Department [2010] EWCA Civ 827: an application for permission to appeal to the Court of Appeal against a reconsideration of a decision of the now abolished Asylum and Immigration Tribunal was not to be treated like an application to appeal against a decision of the Upper Tribunal following an appeal from the First-tier Tribunal, and so the second-appeal criteria that the grounds contain an important point of principle or practice or some other compelling reason would not be applied.

MS (Palestine) v Secretary of State for the Home Department [2010] UKSC 25; [2010] 1 WLR 1639; Times, 18 June 2010: there was no right of appeal against an immigration decision under section 82(2)(h) of the Nationality, Immigration and Asylum Act 2002 on the ground that the country or territory of destination stated in the notice of the decision was not one that would satisfy the requirements of paragraphs 8(1)(c) of Schedule 2 to the Immigration Act 1971 should removal directions to that country or territory in fact be given.

UE (Nigeria) v Secretary of State for the Home Department [2010] EWCA Civ 975; LTL 18/5/2010: an individual's contribution to society could be a factor in the balancing exercise necessary to decide whether his removal from the United Kingdom would breach his right to private life under Article 8 of the European Convention on Human Rights 1950.

R (Clue) v Birmingham CC [2010] EWCA Civ 460; (2010) 13 CCLR 276; (2010) BLGR 485; Times, 7 May 2010: a local authority had erred when considering whether to provide financial support and assistance to a family whose application for ILR was pending and that application raised human rights issues. The local authority should have considered whether the family was destitute and, if it was, whether the application for leave to remain was abusive or hopeless and, if it was not abusive or hopeless, assistance should have been provided, pending determination of the application for leave to remain.

Muuse v Secretary of State for the Home Department [2010] EWCA Civ 453; Times, 10 May 2010: although the Judge applied the wrong test for misfeasance in public office his award of exemplary damages was upheld: it had not been necessary to show reckless indifference as to the illegality of his actions, or high-handed or similar conduct: the Secretary of State's detention of Mr Muuse had been in outrageous breach of the law.

YD (Togo) v Secretary of State for the Home Department [2010] EWCA Civ 214: the correct test for determining whether the removal of an illegal entrant who



was married to a British national constituted an unjustified interference with that person's rights under the European Convention on Human Rights 1950 art.8 was whether the spouse could reasonably be expected to follow the removed spouse to the country of removal; treating the question of whether there were "insurmountable obstacles" preventing the spouse from following the removed spouse as a legal test constituted an error of law.

R (Boyejo) v Barnet LBC; R (Smith) v Portsmouth CC [2009] EWHC 3261 Admin; (2010) 13 CCLR 72, Times, 22 January 2010: local authority decisions to withdraw residential warden services were unlawful in breach of the Disability Discrimination Act 1995.

R (Garbet) v Circle 33 Housing Trust [2009] EWHC 3153 Admin: a housing association's decision to withdraw residential warden services was unlawful because there had been a contractual obligation to provide those services and because those services had been withdrawn without prior consultation.

JA (Ivory Coast), ES (Tanzania) v Secretary of State for the Home Department [2009] EWCA Civ 1353; Times, 2 February 2010: Article 8 of the Convention applied to foreign nationals who had been granted ELR, then DL, to remain in the UK to receive treatment for HIV+. The law as stated in *N v Secretary of State for the Home Department* [2005] UKHL 31, [2005] 2 AC 296, did not apply to them and the Court had to decide whether their removal was proportionate.

R (Manchester CC) v St Helens BC [2009] EWCA Civ 1348; (2010) 13 CCLR 48; Times, 13 November 2009: the local authority in whose area a person was ordinarily resident was under a duty to provide that person with care services under section 29 of the National Assistance Act 1948, even though another local authority may have set up that care package in the local authority's area, unless it was irrational for that other local authority to terminate provision.

R (S) v Walsall MBC and the SSWP [2009] EWHC 2221 Admin: where a community care organisation provided care, support or supervision to a recipient of housing benefit by agreement with the local authority, that care was not provided "on behalf of" the recipient's social landlord of the accommodation, which therefore was not "exempt accommodation" for the purposes of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006, Schedule 3, paragraph 4(10).

Moran v Manchester CC [2009] UKHL 36; [2009] 1 WLR 1506; [2009] 4 All ER 161; (2009) BLGR 749; (2009) NPC 88; (2009) HLR 41; Times, 7 July 2009: occupation of a women's domestic violence refuge did not mean that a woman was "not homeless" for the purposes of Part 7 of the Housing Act 1996.

R (YA) v Secretary of State for Health [2009] EWCA Civ 225; [2010] 1 WLR 279; [2010] 1 All ER 87; Times, 2 April 2009; (2009) 12 CCLR 213; (2009) LS Law Medical 282: guidance given by the Secretary of State for Health on the implementation of the National Health Service (Charges to Overseas Visitors) Regulations 1989 was unlawful in so far as it failed to make clear how the discretion to withhold or allow treatment in certain circumstances should be exercised, particularly where the treatment was urgent and the failed asylum seeker was unable to pay for the treatment.



Lexi Holdings v Luqman [2009] EWHC 496 Ch: various heads of a committal application in respect of a major commercial fraud of over £65M were dismissed because of autrefois convict and for other reasons.

R (M) v Birmingham CC [2009] EWHC 688 Admin, (2009) 12 CCLR 407: in assessing a disabled person's needs, a local authority had implicitly had proper regard to its general duties to disabled persons pursuant to the Disability Discrimination Act 1995 section 49A and it was entitled to conclude that it was not necessary to provide a disabled person with all of the incontinence services requested.

R (Gargett) v Lambeth LBC [2008] EWCA Civ 1450; (2009) BLGR 527; (2009) NPC 4; Times, 20 March 2009: on the proper construction of the Discretionary Financial Assistance Regulations 2001, a local authority had the power to make a discretionary housing payment to pay arrears of rent which had accumulated in the past even where the applicant was now being paid full housing and council tax benefits.

R (Brown) v Secretary of State for Work and Pensions and others [2008] EWHC 3158 Admin; (2009) PTSR 1506: the Divisional Court analysed the lawfulness of the government's post office closure scheme, by reference to the Disability Discrimination Act 1995.

R (TF) v Secretary of State for Justice [2008] EWCA Civ 1457 (2009) 12 CCLR 245; [2008] 1 MHLR 370; (2009) 106 BMLR 54; Times, 6 February 2009: the Secretary of State's transfer direction under the Mental Health Act 1983 section 47 had been unlawful and it had been wrong of the Judge at 1st instance not to quash it and direct the release of the patient.

Jeleniewicz v Secretary of State for Work and Pensions [2008] EWCA Civ 1163: a social security commissioner had been entitled to find that a Polish national who had separated from her child's father, a French national who had come to the UK to pursue a vocational training course, was not entitled to income support.

Lexi Holdings v Luqman [2008] EWHC 2908 Ch: it remained lawful for the Court to grant a passport order in aid of worldwide asset freezing and disclosure orders.

R (Thomas) v Havering LBC [2008] EWHC 2300 Admin; (2009) 12 CCLR 7: decisions by two local authorities to close certain care homes had been neither unreasonable nor contrary to the European Convention on Human Rights 1950 Article 2 where the totality of the medical evidence, which the local authorities' decision-makers had taken account of, had not established a statistically demonstrable rise in mortality following geriatric relocation, and the local authorities had undertaken to provide individual assessments of every resident before their transfer.

R (St Helens BC) v Manchester PCT [2008] EWCA Civ 931; (2009) PIQR P4; (2008) 11 CCLR 774; Times, October 6 2008: a primary care trust, as the delegate of the secretary of state, was the primary decision maker as to whether a person required NHS continuing care. Its decision was amenable to orthodox judicial review, but not to a fully fledged substantive challenge which the court itself must decide.



R (M) v Slough BC [2008] UKHL 52; [2008] 1 WLR 1808; [2008] 4 All ER 831; [2008] HLR 44; (2008) BLGR 871; (2008) 11 CCLR 733; (2008) NPC 94; Times, September 5, 2008: a local social services authority was not obliged under the National Assistance Act 1948 section 21(1)(a) to arrange and to pay for residential accommodation for a person subject to immigration control who was HIV positive but whose only needs, other than for a home and subsistence, were for medication prescribed by his doctor and a refrigerator in which to keep it.

RS (Zimbabwe) v Secretary of State for the Home Department [2008] EWCA Civ 839: the Immigration and Asylum Tribunal had erred in confining its analysis of a human rights appeal by a Zimbabwean woman suffering from HIV to the health issues surrounding her return to Zimbabwe, when there was material on the general situation in Zimbabwe and its impact on the accessibility of health services which required analysis. In the light of statements by the European Court of Human Rights in *N v United Kingdom* (26565/05) (2008) 47 EHRR 39 accepting a broader approach to "humanitarian considerations", the IAT's approach could not be justified.

Lee v Rhondda Cynon Taf CBC [2008] EWCA Civ 1013: in offering a gypsy a tenancy of "bricks and mortar" accommodation after she had been made homeless from her caravan site, a local authority had given lawful and adequate consideration to her position as a gypsy. The local authority had been correct not to consider whether it should acquire an alternative site as the procedure likely to be involved would be lengthy and thus inconsistent with the manner in which homelessness applications were expected to be dealt with.

Bamgbala v CSC [2008] EWHC 629 Admin: the Commission had been entitled to decide that the Appellant had been unfit to carry on a care home (consideration of the correct legal tests).

R (B) v Lewisham LBL [2008] EWHC 738 Admin; [2008] 2 FLR 523; (2008) 11 CCLR 369; (2008) ACS 59: in devising a scheme under which special guardians were paid by reference to adoption allowances rather than by reference to fostering allowances, the local authority had acted unlawfully.

KC v City of Westminster [2008] EWCA Civ 198; [2008] 2 FLR 267; [2009] 2 WLR 185: the marriage, celebrated in and valid according to the law of Bangladesh, of a Bangladeshi woman to a British national who lacked the capacity to marry under English law by reason of his mental impairment, was not recognised as a valid marriage in the jurisdiction of England and Wales.

R (D, G) v Leeds CC [2007] EWHC 3275 Admin: the accommodation needs of destitute expectant and nursing mothers, who were failed asylum-seekers, were the responsibility of the Home Office and not of local authorities.

R (Pettigrew) v Hammersmith and Fulham LBC [2007] EWHC 2671 Admin: it had not been unlawful to reduce grant funding for the Law Centre; the consultation process had been adequate.

LLBC v TG, JG, KR [2007] EWHC 2640 Fam; [2007] 1 MHLR 203; [2009] 1 FLR 414; (2008) 11 CCLR 161: the task to be undertaken by the court at a without notice hearing involving vulnerable adults was to evaluate as best it could the



degree of urgency, the risks of intervening by way of making an order and the risks of not intervening at that stage; TG had not been unlawfully deprived of his liberty whilst accommodated at a care home, albeit that he had lacked capacity to choose to live there and some (but not all) family members had been opposed to him living there and had demanded that he be released.

R (Strickson) v Preston County Court [2007] EWCA Civ 1132: the decision of a circuit judge was not susceptible to judicial review merely because it was wrong, even extremely wrong; it had to be shown that the judicial process itself had been corrupted or frustrated.

R (Hide) v Staffordshire CC [2007] EWHC 2441 Admin; (2008) PNL 13; (2008) ACD 3: the conduct of a solicitor advocate when bringing proceedings relating to care home and day centre closures had been unreasonable and negligent but a wasted costs order would not be made because it would be unjust having regard to the solicitor's financial circumstances.

R (Abdirahman) v SSWP [2007] EWCA Civ 657; [2008] 1 WLR 254; [2007] 4 All ER 882: EEA nationals who were not "qualified persons" within the Immigration (European Economic Area) Regulations 2006 reg.14 did not have a "right to reside" in the United Kingdom and therefore were not entitled to social security benefits. The requirement of a right to reside in the UK was not contrary to EU law.

R (Otley) v Barking and Dagenham PCT [2007] EWHC 1927 Admin; (2007) 10 CCLR 628: the PCT had acted unlawfully by refusing to fund Avastin treatment for advanced colo-rectal cancer, albeit that Avastin was neither licensed for such use or recommended by NICE and albeit that the cost had been a factor in the decision-making.

R (Lee) v Waltham Forest LBC/Staffordshire CC [2007] EWHC Admin; (2008) BLGR 495: the local authority looking after a child under CA 1989, section 20 continued to be responsible for his SEN, not the local authority in whose area the child had come to live.

R (Hide) v Staffordshire CC [2007] EWCA Civ 860; (2008) 11 CCLR 28: it had been lawful for the local authority to make a political decision to close care homes and day centres and the local authority was not in breach of its consultation duty.

R (Hook) v Secretary of State for DWP [2007] EWHC Admin 1705: social security authorities and tribunals are required to consider whether benefits rules and decisions are Convention compliant and, where that is not the case, to grant Convention compliant relief.

R (Thomas) v Staffordshire CC [2007] EWHC Admin 1479: the local authority had acted lawfully in relation to consulting on care home and day centre closures.

R (Hematzadeh and others) v Wandsworth LBC and others [2007] EWHC Admin 1082; [2007] 2 FLR 822; (2007) 10 CCLR 439: local authorities required to accommodate destitute children in need under Children Act 1989, section 20 and not section 17.

R (AW, DAY) v Croydon LBC [2007] EWCA Civ 266; (2007) 10 CCLR 189; (2007) BLGR 417; Times, May 11, 2007: local authorities not the SSHD were



responsible for destitute plus failed asylum-seekers (if lawfully present or with pending, non-abusive fresh representations).

R (Khelassi) v Brent LBC [2007] EWCA Civ 1825: the local authority refusal to award priority need was procedurally unfair and unlawful because of its reliance on NowMedical.

R (Ahmad) v Waltham Forest LBC [2007] EWHC Admin 957; (2007) ELR 445: it was lawful to refuse pupil admission to preferred school notwithstanding parental disability.

R (Limbuela) v SSHD [2005] UKHL 66; [2006] 1 AC 396; [2005] 3 WLR 1014; [2007] 1 All ER 951, (2006) HRLR 4; (2006) 9 CCLR 30: it had been a breach of Article 3 not to support in-country destitute asylum-seekers.

St Helens BC v PE, JW, Manchester PCT [2006] EWHC 3460 Fam; [2007] 1 MHLR 203; [2007] 2 FLR 1115; (2008) 11 CCLR 7: the Court granted complex declarations in relation to a patient with dissociated identity disorder and her carer; it was no longer necessary it is no longer necessary on every occasion to adopt the conventional formula that something was "lawful as being X's best interests" or "not lawful as not being in X's best interests."

R (PB) v Haringey LBC/SSHD [2006] EWHC 2255 Admin; (2007) 10 CCLR 99; [2007] HLR 13: local authority required to accommodate destitute mother engaged in child care proceedings, pending determination of her Article 8 claim for leave to remain.

R (Omotayo) v City of Westminster [2006] EWHC 2572 (Admin): correct approach to JR interim relief in homelessness cases.

R (Raines) v Orange Grove Foster Care Agency [2006] EWHC 1887 Admin; [2007] 1 FLR 760; (2006) 9 CCLR 541; LTL 28/6/2006; [2006] 2 FCR 746: decision to de-register foster carer quashed on the grounds of procedural unfairness and irrationality.

R (Raines) v Orange Grove Foster Care Agency [2006] EWHC 1887 Admin; [2007] 1 FLR 760; (2006) 9 CCLR 541; LTL 28/6/2006; [2006] 2 FCR 746: decision to de-register foster carer quashed on the grounds of procedural unfairness and irrationality.

Barnet LBC v Ismail and Abdi [2006] EWCA Civ 383; [2006] 1 WLR 2771; [2007] 1 All ER 922; [2006] HLR 23; (2006) BLGR 559; Times, April 25, 2006: non-qualified EEA national on income support eligible for housing.

R (Supportways) v Hampshire CC [2005] EWHC Admin 3101 and [2006] EWCA Civ 1035 and [2006] EWCA Civ 1170; (2006) BLGR 836; (2006) 9 CCLR 484 and 498: local authority had acted unlawfully in completing review of commercial supporting people services contract but only very limited relief allowed.

R (S) v Waltham Forest LBC [2006] EWHC Admin 3144: the LEA's school transport policy was lawful and the LEA had reached a lawful decision not to offer dedicated transport to an autistic child.

R (Calgin) v Enfield LBC [2005] EWHC Admin 1716; [2006] 1 All ER 112; [2006] HLR 4; (2006) BLGR 1; (2006) ACD 28; Times, September 27, 2005: whether



resources were relevant to operation of Housing Act 1996, section 208.

R (Khatun) v Newham LBC [2004] EWCA Civ 55; [2005] QB 37; [2004] 3 WLR 417; [2004] HLR 29; (2004) BLGR 696; (2004) L and TR 18; (2004) NPC 28; Times, February 27, 2004; Independent, March 4, 2004: a local authority's policy of requiring homeless persons to accept or decline accommodation offered under Housing Act 1996 section 193(2) without being able to view it was not unlawful but the Unfair Terms in Consumer Contracts Regulations 1999 and Council Directive 93/13 applied to the terms of such local authority lettings.

R (M) v Islington LBC/SSHD [2004] EWCA Civ 235; [2005] 1 WLR 884; [2004] 4 All ER 709; [2004] 2 FLR 867; [2004] LGR 815; (2004) 7 CCLR 230; Times, April 22, 2004: test case on section 54 and Schedule 3 of the Nationality, Immigration and Asylum Act 2002.

R (Grant) v Lambeth LBC [2004] EWCA Civ 1711; [2005] 1 WLR 1781; [2005] HLR 27; (2005) BLGR 81; Times, January 5, 2005: test case on Schedule 3 of Nationality, Immigration and Asylum Act 2002.

R (DTS) v SSHD [2003] EWHC Admin 1941; (2004) 7 CCLR 32: test case on Article 3 and asylum support.

R (Mani) v Lambeth LBC [2003] EWCA Civ 836; (2002) 5 CCLR 486: local authority and not NASS responsible for disabled asylum seekers.

R (Q) v SSHD [2003] EWCA Civ 364; [2004] QB 36; [2003] 3 WLR 365; [2003] 2 All ER 905; [2003] HRLR 21; [2003] UKHRR 607; (2003) HLR 57; (2003) ACD 46; Times, March 19, 2003; Independent, March 21, 2003; (2003) 6 CCLR 136: test case on section 55 of the Nationality, Immigration and Asylum Act 2002.

R (G) v Barnet LBC [2003] UKHL 57; [2004] 2 AC 208; [2003] 3 WLR 1194; [2004] 1 All ER 97; [2004] 1 FLR 454; [2004] HRLR 4; (2003) LGR 569; (2003) 6 CCLR 500; Times, October 24, 2003; Independent, October 29, 2003: scope of duty to provide accommodation under sections 17 and 20 of the Children Act 1989.

R (Price) v Carmarthenshire CC [2003] EWHC 42; (2003) ACD 39; [2003] NPC 9: travellers entitled to pitches under homelessness legislation as "suitable accommodation".

R (von Brandenburg) v Tower Hamlets LBC [2003] UKHL 58; [2004] 2 AC 280; (2000) 3 CCLR 189: legality of 2nd admission under MHA 1983 after previous discharge.

R (Wahid) v Tower Hamlets LBC [2002] EWCA Civ 287; (2002) 5 CCLR 239: community care rights to housing.

R (H) v Ashworth Hospital Authority [2002] EWCA Civ 923; [2003] 1 WLR 127: lawfulness of second section by ASW.

Ratcliffe v Sandwell MBC [2002] EWCA Civ 6; [2002] 1 WLR 1488; (2002) LGR 305; (2003) Env LR D5; Times, January 29, 2002: liability under Article 8 ECHR for damp and mouldy housing.



R (Stewart) v Wandsworth LBC and others [2001] EWHC Admin 709; (2001) 4 CCLR 466; [2002] 1 FLR 469; Times, November 15, 2001: which of 3 local authorities was responsible for meeting needs under Children Act 1989.

R v Newham LBC ex p Sacupima [2001] 1 WLR 563; Times, December 1, 2000; Independent, November 28, 2000; [2001] 33 HLR 1: unlawful to house homeless persons outside the Borough.

Moisejevs v Jephson Homes HA [2001] 2 All ER 901; (2001) 33 HLR 594; (2001) 3 EGLR 14; (2001) 41 EG 186; (2000) EGCS 123; Times, January 2, 2001: leading case on oppression in the execution of warrants.

Mohamed v Hammersmith and Fulham LBC [2001] UKHL 57; [2002] 1 AC 547: redefined the law relating to local connection in homelessness cases.

Welsh v Greenwich LBC (CA) (2001) 81 P and CR 144; (2000) 3 EGLR 41; (2000) 49 EG 118; (2000) EG 84 (CS); Times, August 4, 2000; [2001] 33 HLR 40: local authority liable for condensation damp, first successful case in Court of Appeal.

Bankway Properties Ltd v Dunsford [2001] EWCA Civ 528; [2001] 1 WLR 1369; (2002) HLR 42; (2001) L and TR 27; (2001) 26 EG 164; (2001) 16 EG 145 (CS); (2001) NPC 74; Times, April 24, 2001: very high rent reviews were an unlawful attempt to evade security of tenure.

R v SSHD ex p Salim [2000] Imm AR 6: availability of internal flight.

Ellis v Lambeth LBC [2000] 32 HLR: first reported successful squatters case in the Court of Appeal.

Demetri v City of Westminster [2000] 1 WLR 772; Times, November 11, 1999: leading case on time limits for homelessness appeals.

R (O) v Wandsworth LBC (CA) [2000] 1 WLR 2539 (2000) 3 CCLR 237; [2000] 4 All ER 590; (2000) LGR 591; Independent, June 28, 2000: destitute applicants for ELR on the grounds of illness not excluded from assistance under National Assistance Act 1948 by the Asylum and Immigration Act 1999.

R v Kensington and Chelsea RLBC ex p Kujtim [1999] 4 All ER 161; (2000) 32 HLR 579; (1999) BLGR 761; Times, August 5, 1999; Independent, October 4, 1999; (1999) 2 CCLR 340: local authority not entitled to discharge community care duties unless circumstances truly exceptional: established for the first time that an assessment of need creates an individually enforceable community care duty.

Ireland [1999] 2 All ER 609: successful appeal defining law as to service of section 82 EPA 1990 notices.

Birmingham CC ex p Taj Mohammed [1999] 1 WLR 33; [1998] 3 All ER 788; (1998) COD 404; Times, July 14, 1998; (1997-8) 1 CCLR 441: assessment for disabled facilities grants required to be resource-free.

In the Matter of D [1999] 45 BMLR 191; (1997-8) 1 CCLR 190 and 234: Evening Standard prevented from publicising details of AIDS victim seeking ELR in the UK.



R v City of Westminster ex p M, P, A and X [1998] 30 HLR 10; (1997-8) 1 CCLR 85: local authorities under a duty to provide residential accommodation to destitute asylum seekers.

Camden LBC ex p Mohammed [1998] 30 HLR 315; Times, June 20, 1997; Independent, June 12, 1997: test for interim relief in homelessness cases.

Wigan MBC ex p Tammadge [1998] 1 CCLR 581: social services authority required to purchase larger, adapted accommodation for mother with three severely disabled children.

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