

BACKGROUND

The facts

1. The Claimant is a refugee from Iran. He arrived in the UK in June 2013 and immediately sought asylum. On 7 July 2013 the Claimant was accepted as being a refugee and granted leave to remain in the UK. He was joined by his wife and two children and was temporarily accommodated by a friend.
2. With the help of his GP the Claimant approached the Council on 30 January but was turned away. He returned several days later, this time with a letter from his GP. This time the Claimant and his children were provided with a single room in which the Claimant and his son shared one bed and his wife and daughter shared the other bed. However, it was made clear that this would only be for two weeks. The Council later confirm that the reason the accommodation was booked for two weeks only is that the family were expected to find their own accommodation in the private sector .
3. The family were unable to find their own accommodation and wished to apply for help from the Council but were consistently prevented from doing so until the Claimant instructed solicitors. Although the Council then agreed to accept an application for assistance they did not move the family to suitable accommodation.

The legal proceedings

4. It having been apparent to the Claimant's solicitors that the Council was regularly acting unlawfully in turning homeless applicants away, to only then accept an application once solicitors got involved, the decision was made to bring an application for judicial review unlawful policies and practices of the Council. The aim was to prevent the Council from engaging in unlawful 'gate-keeping' once and for all.
5. The claim was issued on 2 May 2015 and on 7 May 2014 the Council agreed to provide the Claimant with suitable accommodation but denied that it was operating any unlawful policies and practices. However, in light of the fact

that the solicitors had provided evidence of many examples of the same unlawful gatekeeping the Court decided at an oral hearing on 20 August 2014 that it would be in the public interest for the claim to proceed to a final hearing.

6. In due course and despite having defended its actions throughout, the Council conceded that it had been operating a number of unlawful policies and practices which had the effect of deterring or avoiding altogether the making of applications for housing assistance by people it had reason to believe were homeless or threatened with homelessness.

The relevant law

7. The statutory codes that deal with the provision of housing assistance are found in Parts VI and VII of the Housing Act 1996.
8. Part VII is entitled 'homelessness'. In summary, under Part VII local housing, where a housing authority has reason to believe that someone is homeless, or threatened with homelessness, it must make inquiries in order to establish whether or not it owes that person a duty under the provisions of the Act (s.184 of the Act).
9. Furthermore, whilst undertaking those inquiries and pending a decision whether any duty is owed, the authority must provide temporary accommodation to those they have reason to believe may be homeless and have a priority need for accommodation (s.188 of the Act).
10. The duty to conduct inquiries is 'inquisitorial'. It is not for housing applicants to "prove their case" (Homelessness Code of Guidance at 11.5 and see O'Connor v. Kensington & Chelsea RBC [2004] HLR 37 and R (IA) v. Westminster LBC [2013] EWHC 1273).
11. Housing authorities are required to have regard to the Homelessness Code of Guidance for Local Authorities 2006 (s.182) produced by the Secretary of

State for Communities and Local Government. The following extracts are particularly material (emphasis added):

Paragraph 6.2:

"Under s.184 of the 1996 Act, if a housing authority has reason to believe that a person applying to the authority for accommodation or assistance in obtaining accommodation may be homeless or threatened with homelessness, the authority must make such inquiries as are necessary to satisfy itself whether the applicant is eligible for assistance and if so, whether any duty, and if so what duty, is owed to that person under Part 7 of the 1996 Act.."

Paragraph 6.5:

"If a housing authority has reason to believe that an applicant may be eligible for assistance, homeless and have a priority need, the authority will have **an immediate duty under s.188 to ensure that suitable accommodation is available for the applicant** (and his or her household) pending the completion of the authority's inquiries and its decision as to what duty, if any, is owed to the applicant under Part 7 of the Act. Chapter 7 provides guidance on the interim duty to accommodate. Authorities are reminded that 'having reason to believe' is a lower test than 'being satisfied'.

Paragraph 6.6:

"Applications can be made by any adult to any department of the local authority and expressed in any particular form: they need not be expresses as explicitly seeking assistance under Part 7. Applications may also be made by a person acting on behalf of the applicant, for example by a social worker or solicitor acting in a professional capacity, or by a relative or friend in circumstances where the applicant is unable to make an application themselves."

Paragraph 6.15 provides that:

"The obligation to make inquiries, and satisfy itself whether a duty is owed, rests with the housing authority and **it is not for applicants to "prove their case..."**

Paragraph 6.16 deals with the timing of the inquiries. It provides that:

"Housing authorities should deal with inquiries as quickly as possible, whilst ensuring that they are thorough and, in any particular case, sufficient to enable the housing authority to satisfy itself what duty, if any, is owed or what other assistance can be offered. **Housing authorities are obliged to begin inquiries as soon as they have reason to believe that an applicant may be homeless or threatened with homelessness** and should aim to carry out an initial interview and preliminary assessment on the day an application is received. An early assessment will be vital to determine whether the housing authority has an immediate duty to secure accommodation under s.188 (see Chapter 7 for guidance on the interim duty to accommodate). **Wherever possible, it is recommended that housing authorities aim to complete their inquiries and notify the applicant of their decision within 33 working days of accepting a duty to make inquiries under s.184. In many cases it should be possible for authorities to complete the inquiries significantly earlier.**"