

Homelessness

Kelvin Rutledge KC, Matt Hutchings KC and Matthew Feldman

Monday, 13 October 2025



Databases and indirect discrimination

Kelvin Rutledge KC



THE TOWER HAMLETS CASE

R. (Begum) v Tower Hamlets LBC, Shelter intervening [2025] EWCA Civ 1049

- Use of database for applicants needing a move to suitable accommodation.
- Database records e.g. household composition, medical recommendations, maximum floor height, area & affordable rental limit.
- When a property becomes or is about to become available, database enables officers to short-list suitable households swiftly and effectively.
- Waiting time on the database is relevant only in the unlikely event of a tie-break.
- Advantages of database include speed, efficiency, consistency, transparency, void reduction time and insight into procurement needs.

Name	Current Ad	Post code	Property ty	Ref. No.	Fam. Size	T/A bed siz	Perm bed s	Med recs?	Max floor if	Max floor n	Area	Type of prc	Priority Coc	Priority Da	Agent	Current Prc	Arrears (ac	Ben cap	Own Furnit
			NL		4+4	4	4	N	99	99	Any	Any	S	29/05/2018		4	?		
			PLA		3+4	4/5	5	Y	0	0	TH/Close	Flat	M	21/05/2018		3	0		
			?		3 bed need	3	3	N	99	99	Any	3	O/S	04/01/2021		1	0	N	Y
			PLA		2+EDD	0	1	N	99	99	Any	Any	O	31/10/2019		0	?	N	Y
			PLA		2+EDD	0	0	N	99	99	Any	Any	S	09/08/2019		0	0	N	Y
			PLA		2+edc	0/1	2	N	99	99	Any	Any	O/S	17/08/2017		0	699		
			PLA		2+9	5/6	6	Y	3	0	Any	Any	LL	08/08/2017		5	2124.64		
			PLA		2+8	4	5	N	99	99	ANY	ANY	LL/D	23/03/2022		4	2941.07	yes	y
			PLA		2+8	5	6	Y	0	0	ANY	ANY	Suitability	14/12/2023		4	£2,900.00	No	Yes
			PLA		2+7	5	5	N	99	99	Any	Any	LL	30/03/2015		4	8116.38		
			PLA		2+7	5	5	N	99	99	ANY	Any	LL	LL		5	?		
			PLA		2+7	4	5	N	99	99	Any	Any	O/S	13/06/2019		3	0	N	Y
			NST		2+7	4	5	Y	99	2	Any	Any	Decant	08/09/2021		4	75.56	N	Y
			PLA		2+6	4	4	N	99	99	ANY	A	LL	21/01/2022		4	1,713.85	N	Y
			PLA		2+6	4	5	Y	2	2	Any	Any	LL	28/06/2017		4	1464.05		
			PLA		2+6	4	4	Y	99	1	Any	Any	M	30/11/2017		4	0		
			PLA		2+6	4	4	N	99	99	Any	Any	O/S	25/07/2018		2	266.01		
			PLA		2+6	3/4	4	N	99	99	Any	Any	S	20/05/2021		4	2806.77	Y	Y
			NST		2+6	4	4	N	99	99	Any	Any	Decant	01/09/2019		4	£1,343.31		Y
			NST		2+6	4	5	Y	0	0	Any	Any	Decant	01/09/2019		4	CREDIT		Y
			NST		2+6	4	5	N	99	99	Any	Any	Decant	01/09/2019		4	?		Y
			NST		2+6	4	5	N	99	99	Any	Any	Decant	01/09/2019		4	£534.62		Y
			NST		2+6	4	5	N	99	99	Any	Any	LL	01/12/2020		4	2449	Y	Y



THE TOWER HAMLETS CASE



THE CHALLENGE

- Database was a provision, criterion or practice within Equality Act 2010, s.19 (“PCP”).
- Applicants were only put on it if they were occupying unsuitable accommodation.
- Women lead households were overrepresented on the database.
- The database therefore discriminated indirectly against women applicants.

THE TOWER HAMLETS CASE

THE DECISION

- No discrimination.
- The database did not operate as a waiting list or as a means of delaying the provision of suitable accommodation to applicants. Agreeing with the High Court, its purpose was the exact opposite.
- Definition of PCP [42]-[44].
- Use of statistical evidence [56]-[60].
- Causation [64]-[65].



Suitability, HNAs and PHPs

Matthew Feldman



Birmingham City Council v Ali [2009] 1 WLR 1506

“This does not mean that Birmingham were entitled to leave these families where they were indefinitely. Obviously, there would come a point where they could not continue to occupy for another night and the council would have to act immediately. But there is more to it than that. It does not follow that, because that point has not yet been reached, the accommodation is “suitable” for the family within the meaning of section 206(1). There are degrees of suitability. What is suitable for occupation in the short term may not be suitable for occupation in the medium term, and what is suitable for occupation in the medium term may not be suitable for occupation in the longer term.....” per Baroness Hale at [47].



Legal Framework - Suitability

- S206(1) Housing Act 1996 – suitable accommodation
- S210(1) Housing Act 1996 – slum clearance, overcrowding, and Housing Act 2004 (Parts 1-4)
- Homelessness (Suitability of Accommodation)(England) Order 2012/2601
- Homelessness (Suitability of Accommodation) Order 1996/3204
- Section 182 Housing Act 1996 – Homelessness Code of Guidance
- Homelessness (Suitability of Accommodation)(England) Order 2003/3326 – in respect of B&B accommodation



General Considerations in respect of Suitability

R v Brent LBC Ex p Omar (1991) 23 HLR 446

The accommodation must be suitable for the person or persons to whom the duty is owed, and in determining whether the accommodation is suitable, as well as having regard to the matters to which their attention is specifically directed by statute, the local housing authority must also have regard to the circumstances of the applicant and his family in so far as those circumstances are relevant to the suitability of the accommodation.

R v Haringey LBC, ex p Karaman (1997) 29 HLR 366

The housing authority's decision that the accommodation offered was suitable was irrational – the applicant and her family were terrified of living in the accommodation offered and as they had not carried out investigations of their own, they were bound to accept the circumstances described by the applicant. However, this case was wholly exceptional and an applicant challenging suitability has to surmount a very high hurdle – see also R v Newham LBC, ex p Ojuri (No3) (1999) 31 HLR 452 per Collins J

Out-of-area-placements: s208 Housing Act 1996

S208(1) So far as reasonably practicable a local housing authority shall in discharging their housing functions under this Part secure that accommodation is available for the occupation of the applicant in their district.

(2) If they secure that accommodation is available for the occupation of the applicant outside their district, they shall give notice to the local housing authority in whose district the accommodation is situated.



Case Law under s208 Housing Act 1996

- Nzolameso v Westminster CC [2015] P.T.S.R. 549
- Moge v Ealing LBC [2023] P.T.S.R. 1678
- A v Enfield LBC – due to heard in the CA imminently.



Housing Needs Assessment and Personalised Plan

S189A(1) If the local housing authority are satisfied that an applicant is –

(a) homeless or threatened with homelessness, and

(b) eligible for assistance,

The authority must make an assessment of the applicant's case.

(2) The authority's assessment of the applicant's case must include an assessment of –

(a) The circumstances that caused the applicant to become homeless or threatened with homelessness,

(b) The housing needs of the applicant, including, in particular, what accommodation would be suitable for the applicant and any persons with whom the applicant resides or might reasonably be expected to reside ("other relevant persons"), and

(c) What support would be necessary for the applicant and any other relevant persons to be able to have and retain suitable accommodation.



HNA/PHP – in summary

- Local authorities must carry out assessments in all cases where eligible applicants are homeless, or at risk of becoming homeless;
- They must work with applicants to agree the actions to be taken by both parties to ensure that applicants have and are able to retain suitable accommodation;
- Local authorities must keep both the assessment and appropriateness of the agreement and steps to be taken under continuous review until no duty is owed; and
- Any changes to the authority's assessment must be notified to the applicant in writing.



HNA/PHP – Case Law

- R (ZK) v Havering LBC [2022] HLR 47
- R (UO) v Redbridge LBC [2023] HLR 39
- R (UO) v Redbridge LBC [2024] EWHC 1989
- Norton v Haringey LBC [2025] HLR 39



Legal Challenges under the Housing Act 1996

01

Statutory Review under s202

- Discharge decision based on suitability
- PRSO suitability
- Part 6/final offer

02

County Court Appeal under s204

- Public law grounds: Begum (Nipa) v Tower Hamlets LBC [2000] 1 WLR 306, approved in Begum (Runa) v Tower Hamlets LBC [2003] A.C. 430
- Confirm, quash or vary

03

Judicial Review in the Admin Court

- Suitability of interim accommodation
- HNA/PHP challenge



Discharge of duty

Matt Hutchings KC



Final offers of accommodation under Part 6

Original text

*(7) The local housing authority shall also cease to be subject to the duty under this section if—
(a) the applicant, having been informed of the possible consequence of refusal, refuses an offer of accommodation under Part VI, and
(b) the authority are satisfied that the accommodation was suitable for him and that it was reasonable for him to accept it and notify him accordingly within 21 days of the refusal.*

Current text

*(7) The local housing authority shall also cease to be subject to the duty under this section if the applicant, having been informed of the possible consequence of refusal or acceptance and of his right to request a review of the suitability of the accommodation, refuses a final offer of accommodation under Part 6.
(7A) An offer of accommodation under Part 6 is a final offer for the purposes of subsection (7) if it is made in writing and states that it is a final offer for the purposes of subsection (7). ...
(7F) The local housing authority shall not— (a) make a final offer of accommodation under Part 6 for the purposes of subsection (7) ... unless they are satisfied that the accommodation is suitable for the applicant and that subsection (8) does not apply to the applicant.*

PRSOs

Definition of PRSO

(7AC) For the purposes of this section an offer is a private rented sector offer if –

(a) it is an offer of an assured shorthold tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become, available for the applicant's occupation, (b) it is made, with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the authority's duty under this section to an end, and (c) the tenancy being offered is a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least 12 months.

Cessation of duty

(7AA) The authority shall also cease to be subject to the duty under this section if the applicant, having been informed in writing of the matters mentioned in subsection (7AB)– (a) accepts a private rented sector offer, or (b) refuses such an offer.

(7AB) The matters are–

*(a) the possible consequence of refusal or acceptance of the offer, and
(b) that the applicant has the right to request a review of the suitability of the accommodation, and
(c) in a case which is not a restricted case, the effect under section 195A of a further application to a local housing authority within two years of acceptance of the offer. (MHD owed regardless of PN)
(7F) also applies to PRSOs (see above)*

Nitty gritty

Section 193(7AB)(c) and (8)

For PRSOs, s.193(7AB)(c) requires that the applicant is informed of the effect under s.195A of a further application to a local housing authority within two years of acceptance of the offer, before he accepts or refuses the offer.

For final offers of accommodation under Part 6 and PRSOs, the authority must not make the offer unless they are satisfied that the applicant is able to bring his contractual and other obligations in respect of his existing accommodation to an end before being required to take up the offer: s.193(7F) and (8).

Norton

Norton v Haringey LBC [2022] PTSR 1802

- The authority's failure to consider whether the applicant was able to bring his existing contractual obligations to an end before taking up the offer invalidated the offer
- The authority had failed to comply with s.193(7AB)(c) because they had not informed the applicant of the effect of s.195A(2) (applicant deemed homeless if in receipt of a valid s.21 notice)
- For both of these reasons the PRSO had not brought the main housing duty to an end

Discharge of duty decisions (1)

Warsame and Rahanara Begum

- An applicant has the right to request a s.202(1)(b) review of an authority's decision that the main housing duty will cease/has ceased: *Warsame v Hounslow LBC* [2000] 1 WLR 696
- A valid cessation of duty decision under s.193(7) must be notified after the offer has been refused (i.e. it must be retrospective): *LB Tower Hamlets v Rahanara Begum* [2006] HLR 9 – N.B. decided under the original legislation

Ravichandran

Ravichandran v Lewisham LBC [2011] PTSR 117

- An applicant has the right to request a s.202(1)(b) review of an authority's prospective decision that the main housing duty will cease notified by the offer letter
- An applicant also has the right to request a s.202(1)(b) review of an authority's retrospective decision that the main housing duty has ceased
- The way to avoid carrying out multiple s.202 reviews is for the local authority to roll up the suitability and discharge of duty reviews into one review decision, which is final (subject to appeal)

Discharge of duty decisions (2)

Bano

R (Bano) v Waltham Forest LBC [2025] 1 WLR 2557

- An applicant has the right to request a s.202(1)(b) review of a prospective discharge decision in the offer and a confirmatory retrospective discharge decision (confirming *Ravichandran*)
- However, if the conditions for discharge of duty in s.193 are satisfied, the duty ceases “automatically”
- Permission to appeal granted by the Supreme Court with appeal listed on 17 March 2026

Young

LB Wandsworth v Young (by the OS)

- The authority's case is that the applicant requested a review of both suitability and discharge of duty in response to the offer letter and that it rolled up the two reviews, as per *Ravichandran*, hence the review decision was final (subject to any appeal)
- Mr Young's case is that the first valid discharge decision was that notified by the review decision, after he accepted the offer, so that he had the right to request a review of that decision
- Appeal heard by the Court of Appeal on 7 October 2025



Thanks!

