


Supreme Court grants permission to appeal in landmark housing case

25 January 2023  Victoria Searle

In May we [reported](#) on the challenge of balancing homelessness duties and housing stock and specifically the Court of Appeal's judgment in *R (Elkundi and others) -v- Birmingham City Council* and *R (Imam) -v- London Borough of Croydon* [2022] EWCA Civ 601.

In the related issue of mandatory relief in cases where local housing authorities had failed to provide suitable accommodation for a person who was owed the main housing duty, the Court of Appeal held that:

1. Budgetary constraints are not relevant to the question of whether a mandatory order is appropriate once a local housing authority has accepted that a person is owed the main housing duty and their current accommodation is unsuitable. While the limited number of suitable properties available may be relevant in assessing whether a local housing authority has taken all reasonable steps to secure suitable accommodation, constraints on resources are not a reason for non-compliance with a duty imposed by Parliament.
2. Local housing authorities should consider using their Part 6 housing stock to secure suitable accommodation on a non-permanent basis for applicants who are owed Part 7 duties, rather than allocating it on a permanent basis in accordance with their statutory scheme. They must be prepared to explain their decision to a court, and may find it difficult to defend a decision to allocate a property under Part 6 if someone to whom the authority owed a duty under Part 7 could have been granted a non-secure tenancy over the property instead.

The Supreme Court has now granted the London Borough of Croydon permission to appeal outright.

The appeal is likely to be heard before the end of 2023, with judgment expected to be handed down later this year or early in 2024.

Browne Jacobson LLP and Kelvin Rutledge KC are instructed to act for the London Borough of Croydon in the appeal.

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