

CO/1113/2016

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**THE ADMINISTRATIVE COURT**

**NEUTRAL CITATION NUMBER: [2016]EWHC 3878 (Admin)**

Royal Courts of Justice  
Strand  
London WC2A 2LL

Thursday, 10 March 2016

**B e f o r e:**

**MR JUSTICE HOLMAN**

**Between:**

**THE QUEEN ON THE APPLICATION OF ANTWA**

**Claimant**

v

**LAMBETH CHILDREN'S SOCIAL SERVICES**

**Defendants**

Computer-Aided Transcript of the Stenograph Notes of  
WordWave International Limited Trading as DTI  
165 Fleet Street London EC4A 2DY  
Tel No: 020 7404 1400 Fax No: 020 7831 8838  
(Official Shorthand Writers to the Court)

**Mr D Ball** (instructed by Duncan Lewis Solicitors) appeared on behalf of the **Claimant**

**Mr J Holbrook** (instructed by Lambeth Social Services Legal Department) appeared on behalf of the **Defendants**

**J U D G M E N T**  
(As approved by the judge)

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1. MR JUSTICE HOLMAN: The claimant in this case is a citizen of Guyana. She has lived in England for a number of years. She has limited leave to remain, with a right to work here but no recourse to public funds. She has now given birth to altogether three children. The eldest is aged about eight-and-a-half, the second is aged nearly 7, and the third is aged about 7 months. All those children have the same father, who appears, on any view, to have been, for a significant number of years, the partner of the claimant and the man who supported her and the growing number of children.
2. Until recently the claimant and the three children were living in privately rented accommodation, presumably within the area of the London Borough of Lambeth. It appears that the father was paying the rent. The father was, and is, a bus driver with London Transport, said to be earning of the order of £42,000 a year gross.
3. During the course of 2015 three developments occurred. The first was the birth of the youngest child to whom I have referred. The second was that the family were given notice to vacate the accommodation at which they were living because the landlord wished to re-develop that property. They appear to have had no defence to any claim which might have been brought against them for possession. It did not come to that before they finally vacated the property (or were evicted from it) during February of this year. Those two developments are not really challenged or disputed by Lambeth.
4. The third development is much more controversial and disputed. The mother says that the father reacted very badly to the news that the mother had become pregnant again, and in effect, on her account, brought their relationship to an end and has refused further to support the mother or any of the children.
5. Lambeth very strongly dispute that. Lambeth say that the true picture here is of a family, or certainly a father, who is trying to manipulate the situation so as to force Lambeth into providing publicly funded local authority accommodation for the mother and the children, thereby letting him off the hook of having to fund them.
6. It is quite clear that for many months there has been very considerable ongoing communication and engagement between the family, on the one hand, and Lambeth, on the other hand. I have seen a document headed "Housing needs and homeless assessment case notes" which records a number of meetings and contacts during 2015 between social workers, on the one hand, and the father, who is described as "tenant", on the other hand. It is right to say that from about August 2015 there appears to have been a lack of further engagement by the father. The mother, however, continues to be in communication with Lambeth and indeed spoke to the social worker as recently as this week.

7. Against that background the mother applied to the local authority for urgent provision of subsistence accommodation pursuant to section 17 of the Children Act 1989, on the basis that the three children are children in need, being homeless since they were evicted in February from the previous privately rented accommodation.
8. Lambeth do not accept that proposition. There is a formal "child and family assessment" dated 24 December 2015 by a social worker, James Johnson. The essential conclusion of the assessment is that the alleged breakdown between the mother and children, on the one hand, and the father, on the other hand, is merely a mask, or façade, designed, as I have said, to force Lambeth into providing publicly funded accommodation. It remains the opinion and belief of Lambeth that this is, in truth, still a united, or relatively united, family in which the father can, and will, honourably discharge his responsibilities to his children, if not to their mother, rather than see them homeless on the street. The way Mr Jon Holbrook, counsel on behalf of Lambeth, puts it is that the family, or at any rate the father, are engaged in "a game of chicken" to see who blinks first.
9. Having been evicted and not being offered accommodation by Lambeth, the mother, as claimant, commenced the present proceedings for judicial review on or about 1 March 2016. She applied for an immediate mandatory injunction requiring Lambeth, at least temporarily, to house the mother and children. As a written, on paper, exercise, on 1 March 2016 Ouseley J made such an injunction expressly to last only until tomorrow (11 March 2016) with provision for this hearing today (10 March 2016) to see whether or not the injunction should be further extended.
10. There are in fact two prongs to the claim for judicial review. One prong is to seek the provision of accommodation. The other prong is to seek a re-assessment by Lambeth on the grounds that the assessment performed in late December is, it is submitted, flawed, and/or that in any event there have since been material changes in circumstances.
11. So far as re-assessment is concerned, Lambeth have very helpfully and responsibly agreed today that they will re-assess. More detailed provisions with regard to that will be contained in my order, which I do not need to elaborate in this judgment. So the mother has achieved by this hearing today an immediate, and I hope fairly rapid, re-assessment by Lambeth, by a freshly allocated social worker with an open mind. That is an outcome which could not otherwise have been achieved through the judicial review, if at all, in less than many months.
12. The question then arises whether I should extend further this interim injunction. As Mr David Ball submits, on behalf of the claimant, I must have regard to what is called "the balance of convenience", and in particular to whether irredeemable damage might be caused to one party or the other by making or refusing to make the injunction. He submits on behalf of the mother that if I do not extend the injunction today, she and the children will be out on the street tomorrow and may be having to sleep out in the open air. He says that that would represent irredeemable damage to the children which far outweighs any cost or damage to Lambeth in having to further house them whilst they carry out the

re-assessment.

13. I do not want to seem heartless or unsympathetic to the alleged plight of vulnerable young children, but I accept the submission of Mr Holbrook that in these sorts of cases and situations there is always a real risk of local authorities being manipulated, and ultimately the court, through judicial review, becoming caught up or implicated in the manipulation. The fact of the matter is that as recently as late December this local authority have clearly assessed the circumstances of this family and the question whether or not in truth these children are children in need. It is said that their assessment is "flawed", but it cannot be doubted that they have carried out that assessment. Mr Holbrook has placed before the court a number of documents and materials which tend (I stress the word "tend") to support the proposition that, in truth, this father is still part of, and supportive of, this family. At least one of those documents, namely a very recent report dated 7 January 2016 from one of the children's school, may be contradicted by an even more recent email dated 9 March 2016 from the head teacher of that school. These, of course, are the sorts of issues which Lambeth now need to investigate and grapple with on the agreed re-assessment.
14. The fact of the matter is that at the moment I am faced with a situation in which a hard-pressed local authority have conscientiously, even if not necessarily reliably, performed an assessment after an investigation on the ground of the circumstances of this family. I simply cannot judicially reach a conclusion today that that assessment is mistaken or wrong. I cannot proceed today on the basis that, notwithstanding the assessment, these children are in fact children in need. Accordingly, I decline to extend the interim injunction that was made on 1 March 2016. This matter must now return to Lambeth to see how it evolves.
15. Mr Ball, would you be very, very kind, and type this up this order and lodge it with today's Associate?
16. Are there any other matters that now arise? I rather hope not. I am very grateful to you Mr Ball, and I am very grateful to you Mr Holbrook. Thank you all very much indeed.