Neutral Citation Number: [2019] EWHC 793 (Admin)

Case No: CO/4714/2018

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29 March 2019

Before:

ANNE WHYTE Q.C.
(Sitting as a Deputy High Court Judge)

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Between:

The Queen (on the Application of SN, PN and CN)	**Claimants**
- and -	
(1) London Borough of Enfield	**Defendants**
(2) London Borough of Haringey	

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Mr Ben Chataway (instructed by **GT Stewart Solicitors**) for the **Claimants**
Mr Michael Paget (instructed by **Enfield Legal Services**) for the **First Defendant**
Mr Hilton Harrop-Griffiths
(instructed by **Haringey Legal Services**) for the **Second Defendant**

Hearing date: 6 March 2019

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Approved Judgment

Anne Whyte QC:

1. This is a challenge to the First Defendant's ('Enfield') decision on 22 November 2018 to cease providing the claimants with accommodation and subsistence under section 17 of the Children Act 1989 following an assessment of their needs completed on 17 October 2018 and to the Second Defendant's ('Haringey') decision, said to have been made on 22 November 2018, not to provide them with such support.

2. The claimants have the benefit of anonymity. They are now aged 8, 4 and nearly 2. Proceedings have been brought on their behalf by their mother, SI.

3. Yip J granted interim relief on 28 November 2018. Her order required Enfield to continue providing accommodation and subsistence support to the claimants and their mother with Haringey meeting half the cost of such services.

4. David Casement QC, sitting as a Deputy High Court Judge granted permission on 21 December 2018.

The Background Facts

5. SI is Nigerian and came to the UK in 2010 on a visitor's visa. She does not currently have Leave to Remain and has no recourse to public funds ('NRPF'). She is in the process of making an immigration application. The following description is taken from a witness statement prepared for these proceedings (which diverges in some respects from the accounts given by her to social workers tasked with assessing her circumstances). She said that she lived for a while with her partner's ('GN') sister at an address in N17. SN was born in 2010 and towards the end of that year, SI was required to move due to overcrowding. Between that move and 2014 she says that she stayed with various friends that she had met through her church. In January 2014 she registered SN at a school in Haringey. She was living at an address in Park Avenue, N22, Haringey which was being rented for her by GN. PN was born in October 2014 to the same partner who continued to reside at a separate address. GN was no longer able to afford the rent by March 2016 and approached Haringey for support for his family. It was explained that SI was the person who needed to request support. She failed to do so, stating in her witness statement that she was afraid the local authority would take her children from her although records suggest that her lack of engagement was more to do with her lack of immigration status. She was served with an eviction notice and left the property in Park Avenue in late 2016.

6. She states that she then moved to High Road, N22, Haringey, a smaller property and GN continued to pay the rent. CN was born in March 2017, again to the same father. According to her statement, in October 2017 GN stopped paying the rent and stopped contacting SI. He stopped seeing his children. As a consequence, SI left this property in December 2017 and after a brief sojourn at a new address in Clyde Road, Enfield, paid for by a female church friend called Chidi, began to stay with "NE" and his family at 55 Third Avenue, also in Enfield. These were people, she says, that she had met through her church. SI stated that she and her three children would usually sleep in the living room. NE was, she said in her statement, married with four children. She has never suggested that NE charged her rent or granted her any sort of tenancy.

7. SI is not married to GN although she has on occasion taken his surname. PN, the 4-year-old, has cystic fibrosis. She undertakes chest physiotherapy daily and is prone to respiratory and gastrointestinal setbacks. She attends regular check-ups at Great Ormond Street Hospital. She has been advised by those treating her that in order to minimise the risk of infection, she requires her own bedroom and should live in a mould-free environment.

8. In August 2018 SI states that she was asked to leave by NE as the property was overcrowded. She consulted the Hackney Migrant Centre for advice. The Centre requested from Enfield a child in need assessment as a matter of urgency given the risk of street homelessness. By now both SN and PN were attending schools in Haringey. Enfield provided SI and the Claimants with interim support of accommodation and financial assistance pending the results of the section 17 assessment. As soon as the situation with PN's cystic fibrosis was known, the accommodation was altered to something more suitable to her health needs.

The Section 17 Assessment

9. Enfield's assessment process was completed on 17 October 2018. It is necessary to give a detailed summary of it given the way in which the case is advanced on behalf of the claimants. It included home visits conducted by social workers on 16 August and 21 September 2018. During the latter visit, SN, the eldest daughter was asked detailed questions about her previous accommodation and about her father. The social worker felt that SN was uncomfortable answering the questions, hesitant and reluctant to discuss her father and what role he played in her life. She gave inconsistent accounts about whether her father did the school run and when. She described living previously with an "uncle" and "aunt" who had four children, whose ages she did not know. Despite having lived with them, apparently, for 8 months, she could not name two of the four children with whom she had been residing. On the same day a detailed account was taken from SI about her circumstances. Various checks and enquiries were then conducted. The primary school of SN and PN reported that, contrary to SN and SI's accounts, GN was an involved and responsible father who regularly "did" the school run and spoke to staff at the school. He would on occasions drop the children off and collect them with SI. SI had registered him as an emergency contact with the school as recently as January 2018 and had chosen, in 2018, to share his surname for the purpose of school records.

10. A fraud investigator spoke to NE during an unannounced visit to his home. He said that his house was already overcrowded and denied that SI or her children had ever stayed at his property. He said that he knew SI's partner, GN, but was not fully aware of the family circumstances. He signed a witness statement to this effect. The investigator made further enquiries about council tax and benefit issues, whether any utility bills were registered at addresses given by SI, with the Haringey's Children's Service and with the children's primary school.

11. Intermittent contact was made with GN. He confirmed that he was no longer in a position to support his family and stated that this had been the case for months. He said that he had not done the school run for a long time and had not seen his children for some time. He was vague about when he had last attended their school. He was at times emotional and on occasions declined to return calls. He did not fully engage therefore with the process despite being aware of its purpose.

12. Perceived inconsistencies in the account provided by SI were discussed in some detail with her. For example, as I have observed, the school had confirmed that GN had been regularly doing the school run until July 2018. SI denied that this was so and suggested it was a male friend of hers, whose contact details she could not provide and who was apparently now in Canada with no known date of return. It was assessed that SN had been deliberately guarded in her account about the school run and might have been told what to say. SI denied that this was the case. The friend "Chidi", it transpired, was a male, not a female and had told social workers that he had never paid SI's rent and that she had never lived at his address. It was felt that SI could not even accurately describe the composition of NE's family, mistaking the number and gender of his children and NE's denial of her account was also put to her. In response to this, SI simply repeated her previous account and could offer no explanation for NE's starkly different one.

13. The evaluative judgment of the relevant social worker was that SI paused for long periods when dealing with relatively basic questions, the answers to which ought to have been obvious to SI. The assessment concluded that SI had not been honest and open in her responses and that GN had not fully engaged and that as a consequence it could not be known what true level of support was available to SI and her children. It was noted that SI had been given opportunities to clarify or explain the inconsistencies but had been unable to do so. The decision maker felt unable to conclude that the children were in need not least because of the uncertainties around the relationship between SI and GN and because of what was perceived to be an unreliable account of how they had been supported throughout 2018. The assessment also noted that there was insufficient evidence of SI living in Enfield and noted that the GP, relevant school and health visiting team were all in Haringey. It may be convenient to record here that Enfield notes that surprisingly SI did not provide those conducting the assessment with photographs or documents showing any sort of connection with NE's address or for example evidence of shopping or financial transactions near NE's premises. There was no information about how she had financially supported her children during 2018. The following verbatim extracts from the assessment are relevant:

    i) "Analysis and Planning": *"At this stage it is not known how the family would be affected by services being withdrawn by HIS, as SI has not provided an accurate account of her family's circumstances and so the level of support available to her family is not known. Furthermore, GN refused to engage during the assessment and so his ability to care for his children is not known"*

    ii) "Safety/Wellbeing Scale": *"Given that the family are currently being supported by HIS with accommodation and subsistence, this prevents them from being rendered homeless and destitute. Although the level of support available to the family is not known, due to SI not being open and honest during the assessment process."*

    iii) "Future Safety": "*Due to the inconsistencies in SI's account, I am unable to conclude that the children are in fact children in need. Uncertainty remains around contact between SI and GN and it is also not known whether the family have any support available to them*" and "*Given that it has not been evidenced that the family were living in Enfield when the alleged homelessness occurred, support from the Homeless and Immigration Service at Enfield Children's Services is to be terminated. Adequate notice is to be given to SI that support will end, to allow her to make alternative arrangements ie contact Haringey*

Children's Services where the family have an address history and continue to have links (the family's GP and childrens' school)"

iv) "Next Steps": *"I am of the view that it is likely that the parents have been in contact more recent [sic] than what SI has reported. It is likely that the information provided by the children's school was a more accurate account of GN's involvement in his children's lives. However although there remains uncertainty regarding the level of involvement GN has in his children's lives, what is of more significance is that GN has reported that he is not currently in a position to contribute to his childrens' care; although he has not provided any evidence (ie proof that he is unemployed). Further attempts were made to contact GN to explore his circumstances further, however he refused to engage……The inconsistencies in SI's account of how she became homeless and her relationship with GN is questionable….As there is no evidence linking the family to an address in Enfield, it may well be the case that the family became homeless whilst living in Haringey and as such the children became children in need in the borough…..From the information gathered, I am unable to conclude that the children are children in need, as the inconsistencies in SI's account makes clear that she has not been open and honest…..furthermore it was not established that the family lived in Enfield"*

v) "Managers, Please add your view of this assessment": *"I have read the assessment and discussed the content with the SW and I am satisfied the family cannot evidence a connection to Enfield when they were immediately homeless nor evidence that they have ever lived in Enfield. Both parents have not been able to provide the factual evidence required around timescales for their current situation/living arrangements which are disputed by evidence from the school and their own support networks. As such it cannot be determined that the children are in need and that they are the responsibility of LBE"*

vi) "Outcomes: No Further Action": *"From the information gathered it was not determined that the children are children in need, as the inconsistencies in SI's account makes clear that she has not been open and honest. SI was given numerous opportunities to explain/clarify the inconsistencies, but she did not offer a plausible explanation to any of the issues raised, she simply maintained her story. Furthermore, it was not established that the family lived in Enfield, as alleged by SI. SI may wish to consider approaching Haringey Children's Services, as she is able to evidence having lived in the borough and the family continue to have links in the borough."*

14. Enfield made a MASH (Multi Agency Safeguarding Hub) referral to Haringey on 6 November 2018 in which it assessed the danger of the family being rendered homeless and destitute as 7 out of 10. Haringey promptly denied any obligation. A week later the claimants' solicitor sent some additional information to both authorities. They pointed to purported inconsistencies in NE's account after the claimants' solicitor had spoken with him, more recently, on the telephone and suggested that this meant that SI's account should be preferred to his. The relevant social worker considered this information and made further enquiries including making further contact with NE but concluded after speaking with him and obtaining his version of events, including contact with the claimants' solicitor, that the outcome remained the same. After this, legal proceedings were commenced.

15. Both defendants agree between themselves that if the claim against Enfield fails, the claim against Haringey fall away. The Claimants do not accept this and submit that if the claim against Enfield fails, there remains a duty on Haringey to conduct an assessment under section 17 and to continue to support the Claimants.

The Legal Framework and Principles

16. Paragraph 1 of Schedule 2 of the Children Act 1989 provides that:

> "(1) Every local authority shall take reasonable steps to identify the extent to which there are children in need within their area"

17. Section 17 of the Children Act 1989 as amended provides, relevantly that:

> "(1) it shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part) –
>
> (a) To safeguard and promote the welfare of children within their area who are in need; and
>
> (b) So far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs"
>
> "(10) For the purposes of this Part a child shall be taken to be in need if-
>
> (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health, or development without the provision for him of services by a local authority under this Part;
>
> (b) his health or development is likely to be significantly impaired, of further impaired, without the provision for him of such services; or
>
> (c) he is disabled, and 'family', in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living"

18. "Services" includes accommodation and giving assistance in kind or in cash. "Within their area" is satisfied by physical presence which means that the duty to assess may fall simultaneously on more than one local authority: *R (on the application of Stewart) v Wandsworth LBC* [2002] 1 F.L.R.

19. In this case, because of the operation of paragraph 7 of Schedule 3 to the Nationality, Immigration and Asylum Act 2002, SI is not eligible for the support and assistance under section 17 of the 1989 Act. Paragraph 2 of the Schedule however does not prevent the provision of support to a child and paragraph 3 does not prevent the exercise of a power or performance of a duty if and to the extent that its purpose of performance is necessary to avoid a breach of the person's Convention rights.

20. It is common ground between the parties then, that a local authority has power to provide services under section 17 to a child lacking in immigration status but can only provide services to such a child and her parent if and to the extent that failure to do so would breach the Convention rights of either the child or parent. As the court observed in *R (O) v LB of Lambeth* [2016] EWHC (Admin) 937, the section 17 power to accommodate can, in certain circumstances, in effect amount to a duty imposed on a local authority to act as a provider of last resort in cases where a child and his/her parent would otherwise be homeless or destitute.

21. Whether or not a child is in need is a question for the judgment and discretion of the local authority. The approach to be taken when conducting such an exercise under section 17 of the 1989 Act was analysed in *R (O)* by Helen Mountfield QC, sitting as a Deputy High Court Judge, whose summary I gratefully adopt:

> 15. "The duty of a local authority pursuant to paragraph 1 of schedule 2 to the Children Act 1989 is to take 'reasonable steps to identify' whether a child is in need. What those steps are is a matter for the local authority, subject to complying with public law requirements. Statutory guidance as to child in need assessments is set out in "Working Together to Safeguard Children", dated March 2015, and departure from that guidance as to assessment without reasonable explanation would be a public law failing. However, that is not the suggestion in this case.
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> 16. The duty to make reasonable enquiry is a duty to make those enquires which are either suggested by the applicant or which no reasonable authority could fail to undertake in the circumstances.
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> 17. Whether or not a child is 'in need' for these purposes is a question for the judgement and discretion of the local authority, and appropriate respect should be given to the judgements of social workers, who have a difficult job. In the current climate, they are making difficult decisions in financially straitened circumstances, against a background of ever greater competing demands on their ever diminishing financial resources. So where reports set out social workers' conclusions on questions of judgement of this kind, they should be construed in a practical way, with the aim of seeking to discover their true meaning (see per Lord Dyson in McDonald v Royal Borough of Kensington & Chelsea [2011] UKSC 33 at [53]). The way they articulate those judgements should be judged as those of social care experts, and not of lawyers. Nonetheless, the decisions social workers make in such cases are of huge importance to the lives of the vulnerable children with whose interests they are concerned. So it behoves courts to satisfy themselves that there has been sufficiently diligent enquiry before those conclusions are reached, and that if they are based on rejection of the credibility of an applicant, some basis other than 'feel' has been articulated for why that is so.
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> 18. The converse is also true. An applicant parent who is seeking to persuade a local authority that they and their child are destitute or homeless, so as to trigger the local authority's duties of consideration under section 17 Children Act 1989 is seeking a publicly funded benefit, to which they would not otherwise be entitled, which diverts those scarce funds from other Claimants. Even the process of assessment is a call on scarce public funds. It

> therefore behoves such an applicant to give as much information as possible to assist the decision-maker in forming a conclusion on whether or not they are destitute.
>
> 19. If the evidence is that a family has been in this country, without recourse to public funds and without destitution for a number of years, reliant on either work or the goodwill and kindness of friends and family, then the local authority is entitled and indeed rationally ought to enquire why and to what extent those other sources of support have suddenly dried up. In order to make those enquiries, the local authority needs information. If the applicant for assistance does not provide adequate contact details for family and friends who have provided assistance in the past, or cannot provide a satisfactory explanation as to why the sources of support which existed in the past have ceased to exist, the local authority may reasonably conclude that it is not satisfied that the family is homeless or destitute, so that no power to provide arises.
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> 20. Fairness of course demands that any concerns as to this are put to the applicant so that she has a chance to make observations before any adverse inferences are drawn from gaps in the evidence, but otherwise, the local authority is entitled to draw inferences of 'non-destitution' from the combination of (a) evidence that sources of support have existed in the past and (b) lack of satisfactory or convincing explanation as to why they will cease to exist in future.
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> 21. In other words, if sufficient enquiries have been made by the local authority and if as a result of those enquiries an applicant fails to provide information to explain a situation which prima facie appears to require some explanation, then the failure by an applicant to give sufficient information may be a proper consideration for the local authority in drawing the conclusion that the applicant is not destitute: see per Mr Justice Leggatt in R(MN) v London Borough of Hackney [2013] EWHC 1205 (Admin) at [44]. But that does not absolve the local authority of its duty of proper enquiry.

22. I also note what was said by Leggatt J in the Hackney case at paragraph 26 as to the approach which the court should take to evidence in determining whether there has been such enquiry. He said that little or no weight should be given to witness statements prepared months after a decision had been taken for the purpose of litigation, with the obvious dangers of ex post facto rationalization. Naturally that means that this court must, in considering the parties' submissions, focus upon what was known to the social workers at the time upon reasonable enquiry rather than what is contained in SI's litigation witness statement or her *ex-post facto* assertions of why either NE or GN gave accounts at odds with SI's.

23. A review of whether a local authority has taken reasonable steps to identify whether a child within its area is in need requires close scrutiny – see *R (S and J) v Haringey* [2016] EWHC 2692 Admin paragraph 54. However, as Mr Paget, on behalf of Enfield, submits, the test of irrationality imposes a high burden on claimants in this sort of case. The decision maker in question must make a decision of fact balancing all the reasonably available information, forming judgments about demeanour and credibility

and applying any relevant guidance. Mr Paget cited Lord Brightman in *R v Hillingdon London Borough Council, ex p Puhlhofer* [1986] AC 484 at Paragraph 518:

> "Where the existence or non-existence of a fact is left to the judgment and discretion of a public body and that fact involves a broad spectrum ranging from the obvious to the debatable to the just conceivable, it is the duty of the court to leave the decision of that fact to the public body to whom Parliament has entrusted the decision making power save in a case where it is obvious that the public body, consciously or unconsciously, acting perversely."

24. Questions of credibility are for the adjudicator of fact. It is open to a fact finder to disbelieve a person without specific evidence being available to contradict the person, though that will depend upon all the circumstances. It is open to a fact finder, reasonably, to come to a different conclusion on the same facts from that of another reasonable fact finder. Seeing the demeanour of those engaged in the assessment process and interacting with them verbally, informs the degree and quality of judgment behind the assessment findings. This court must be astute to avoid the danger of substituting its views for the decision-maker and of contradicting a conscientious decision-maker acting in good faith with knowledge of all the facts. The view of the decision-maker therefore, in the absence of an error of law or bad faith, commands considerable weight albeit within the requisite application of close scrutiny.

Grounds

Ground 1: Physical Presence/Connection to Enfield

25. In his oral submissions, Mr Chataway for the claimants explained that his basic proposition was that Enfield had wrongfully relied upon what they saw as the claimants' lack of physical presence in Enfield and had therefore assumed that these children were Haringey's responsibility. That informed and infected the section 17 assessment process, rendered it inadequate and shorter than it should have been and was the principal reason behind the negative decision.

26. The claimants contend that Enfield should not have relied on SI's inability to demonstrate physical presence in or connection to Enfield as a reason for concluding that the children were not in need. In fact they could demonstrate physical presence. Enfield, in paragraph 11 of its Grounds of Resistance appears to accept this criticism and agree that the assessment ought to have proceeded on the basis that the children were physically present in Enfield. The question then is whether the decision survives this error. In this regard, the claimants argue that Enfield cannot suggest that the outcome would have remained the same, especially in circumstances where;

i) Despite declining to conclude that the children were in need, they referred the matter to Haringey. Enfield now accepts in its Grounds of Resistance such a referral was unnecessary given the finding of a lack of need;

ii) There can be no real doubt that the family has no recourse to public funds and Enfield's investigations revealed no sources of income;

iii) Enfield placed the family's risk of becoming homeless and destitute on the MASH form as 7 out of 10.

Ground 2: Irrationality & Failure to make Adequate Enquiries

27. The claimants rely upon the fact that the social worker completing the initial assessment was alerted to PN's medical and accommodation needs and was satisfied that the family had been homeless when GN stopped paying the rent on the High Road property and that due to her immigration status, SI was not able to meet her children's needs without support. Coupling those factors with the subsequent danger score of 7 out of 10, and what they claim now to be the inability of GN to rent property for the claimants by virtue of the "right to rent" provisions in sections 20 to 22 of the Immigrations Act 2014, the claimants submit that the decision is irrational notwithstanding any inconsistencies or lack of reliability in the accounts provided by SI and GN. Further, if Enfield wishes to defend its decision with reference to the inconsistences, it ought, say the claimants, to have made further enquiries because there was other material and evidence which suggested that SI was telling the truth when she said that they had stayed with NE during the first 8 months of 2018. In this context they point to the fact that NE could have a motivation to lie about her stay in his house because of the conditions governing local authority tenancy agreements.

28. Leaving aside the issue of physical presence, these grounds are about the judgments made by social workers about SI's credibility. They did not accept that she had been living in 2018 with NE and they did not accept what she had told them about the state of her relationship with her children's father. They were aware of SI's lack of immigration status and PN's cystic fibrosis. They were aware that when she consulted Hackney Migrant Centre, she had immediately stated that she had been staying at NE's house. They were aware that GN was suggesting that he could no longer support his family. To successfully impugn those judgments, the claimants must satisfy the court that no other reasonable social worker would have reached the same conclusion. This is, as is well known, a high threshold to pass.

29. Enfield submits that the assessment survives the free standing and erroneous consideration about physical presence because of the rational conclusions reached about SI's account and there being insufficient evidence of the children being in need. Mr Paget contended that reasonable enquiries were made, PN's medical situation was understood and considered and that gaps in the narrative, especially about how SI had supported herself and the children were the result of SI not providing Enfield with sufficient information which ought to have been at her fingertips. This, he says, brings paragraphs 18 to 21 of the *O* decision into play. A practical interpretation of the written assessment demonstrates that the social workers concluded that Enfield was not the responsible local authority for the children and in any event they were not in need. Social workers, he submits, have to make unenviable binary decisions sometimes, in the face of incomplete or conflicting evidence and that was the case here.

Discussion

30. It is correct that physical presence was cited as a reason for deciding that Enfield should not have responsibility for the claimants, as set out in the extracts cited in paragraph 13 above. That was an error of law, as Enfield now concedes. It is quite clear however from those extracts that SI's account significantly informed the social workers'

conclusion that the claimants were not children in need for the purpose of the statutory assessment. This is one of those cases, I find, where it is obvious from their reasoning, read as a whole, that the decision would have been the same notwithstanding the error about physical presence: per Lord Neuberger at paragraph 51 of *Holmes-Moorhouse v Richmond upon Thames LBC* [2009] 1 WLR 413. The error of law does not justify quashing the assessment.

31. I do not accept the claimants' submissions that the assessment was rushed or inadequate because of the wrong approach to physical presence and/or because Enfield assumed that if any borough had responsibility, it was Haringey. I find, on the material before me, that the assessment was conducted in good faith and that reasonable enquiries were made with sufficient diligence. Sufficient account was taken of PN's medical condition. The fact that the enquiries did not reveal a source of income for SI does not particularly assist the claimants. SI had plainly had a source of income throughout 2018 but did not satisfactorily reveal or explain it to those assessing her childrens' situation. I note the assessment that there was a 7 out of 10 danger that the children might become homeless in the future and that they might temporarily have been homeless in 2017 but that does not render the basic assessment unlawful. Enfield was under a duty to take reasonable steps to assess whether the children were in need at the point of assessment and I have found, on the facts, that they did so.

32. In essence the social workers conducting the assessment did not believe what SI told them about where she had been staying, how she had historically been supporting the children and the extent of GN's emotional and financial support. They were not prepared to take at face value her assertion that no other support was available to her and they did not feel that GN had engaged sufficiently in terms of providing relevant information. They came to these conclusions for various reasons but included the following:

    i) Despite not living with the father of her children, having no immigration status and being deemed "NRPF", SI had consistently been supported once way or another since 2010;

    ii) They felt that she had provided inadequate information about that support and that there was no good reason for this;

    iii) They felt that her account was inconsistent at times and that she was not honest when confronted with such inconsistencies;

    iv) They also felt that her account lacked sufficient detail and was inconsistent with the accounts of other relevant individuals. When confronted with those other accounts, it was felt that she had no honest explanation for the inconsistencies. This was particularly so in relation to the information from the school and from NE;

33. That assessment was not irrational. Grounds 1 and 2 therefore fail. That being so, it is not necessary for me to consider Enfield's submissions in respect of section 31(2A) of Senior Courts Act 1981.

Ground 3: Haringey

34. In the Claim Form, the claimants sought a declaration that Haringey's refusal of interim accommodation was unlawful. In oral submissions, Mr Chataway relied upon the correspondence passing between Enfield and Haringey before and after issue of proceedings and contended that Haringey was now under a duty to assess. He submitted that Haringey had been critical in writing about the quality of Enfield's statutory assessment, had accepted the necessary condition of physical presence in Haringey for the purpose of an assessment and had formed the view that if Enfield stopped providing support, the family would be rendered homeless. He submitted that Haringey cannot now go behind their earlier criticisms of the assessment and suggest that in such circumstances no further assessment is necessary, not least because Haringey have not filed any evidence to explain their position. That all being so, Mr Chataway submits that this court, in the event of the claim failing against Enfield (as it does) should order Haringey to perform a section 17 assessment. Both defendants resist this proposition.

35. Mr Harrop-Griffiths, on behalf of Haringey submits that such an order is not necessary in the circumstances of this case. He relied upon the dicta in *R (Stewart) v Wandsworth LBC* [2001] EWHC 709 (approved in *R (J) v Worcestershire CC* [2014] EWCA Civ) to the effect that where more than one authority is under a duty to assess, there is not obviously a need for two separate assessments and there is, in any event, a duty of co-operation between authorities under section 27 of the Children Act 1989. Any negative view that Haringey may have expressed about the quality of Enfield's assessment was formed before the completion of the assessment process. Further he submits that the claimants have not identified what Haringey might or would do, that Enfield has not done in terms of assessment.

36. In circumstances where the court has found Enfield's assessment to have been lawful, it is neither appropriate nor necessary to mandate another local authority to duplicate that process. If the section 17 duty is triggered after completion of this litigation for any reason, the relevant authority must comply with that duty and if more than one authority is engaged, section 27 of the 1989 Act must likewise be complied with.

37. Accordingly, the Claims are dismissed.