



Neutral Citation Number: [2023] EWHC 3083 (Admin)

Case No: AC-2023-LON-002064

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

Royal Courts of Justice  
Strand, London, WC2A 2LL

Friday, 1<sup>st</sup> December 2023

**Before:**  
**FORDHAM J**

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**Between:**  
**THE KING (on the application of BN) Claimant**  
**- and -**  
**LONDON BOROUGH OF HOUNSLOW Defendant**

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**Jamie Burton KC and Daniel Clarke**  
**(instructed by Hopkin Murray Beskine) for the Claimant**  
**Michael Paget (instructed by Hounslow LBC) for the Defendant**

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Decision on the Papers  
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**Approved Judgment**

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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FORDHAM J

## **FORDHAM J:**

### Open Justice

1. In this case I vacated a hearing scheduled for 30 November 2023, in circumstances where the parties were agreed as to the Order which the Court should make. I am making an Order in those agreed terms. The Order stays the proceedings with liberty to apply. I have not determined any substantive issue. But I am satisfied that it is appropriate to promote open justice, by my setting out the terms of the Order in the form of this brief judgment. The parties, to whom I am grateful for their cooperation and assistance, have no objection to this course. It avoids any practical bar from non-parties being left in the dark, in circumstances where they would (if they knew to ask) have a right of access to Orders from the court records (CPR 5.4C and 5.4D). It is unnecessary to take any further step. I am simply recording, verbatim, the agreed terms of the Order.

### Recitals

2. The following text appears as recitals in the Order. (1) Upon the Defendant's Housing Allocation Policy under Part 6 of the Housing Act 1996, effective from 3 April 2018 ("the Scheme"). (2) And upon paragraph 3.1.2(b) of the Scheme requiring that "all applicants under the Scheme must be currently resident in the borough of Hounslow and have lived in the borough continuously for 5 years or lived in the borough for a total of 5 out of the last 7 years", subject to specified exemptions ("the Residence Criterion"). (3) And upon the Claimant's application to the Defendant under the Scheme, on 20 March 2023, to join the Defendant's housing register. (4) And upon the Defendant's decision, dated 3 April 2023, refusing the Claimant's application on the basis that she does not fulfil the Residence Criterion. (5) And upon the Claimant's claim for judicial review of the Residence Criterion, as applied to her in the decision of 3 April 2023. (6) And upon permission having been granted by the order of Murray J dated 18 August 2023. (7) And upon the Defendant having indicated on 8 September 2023 that it did not intend to contest the claim. (8) And upon the Claimant's application for determination of remedies dated 15 September 2023. (9) And upon the decision of the Defendant's Exceptional Needs Referral Panel, set out in a letter dated 8 November 2023, to disapply the Residence Criterion in the Claimant's case and to give her a priority date of 20 March 2023. (10) And upon the Defendant accepting that: (a) between 3 April 2023 and 8 November 2023, by application of the Residence Criterion it: (i) unlawfully indirectly discriminated against the Claimant her on grounds of race (as a non-UK national, who is a refugee) and on grounds of sex (as a woman, who is a victim of gender-based non-domestic violence), contrary to sections 19 and 29 of the Equality Act ("EA") 2010; (ii) unlawfully discriminated against the Claimant as a refugee and as a victim of gender-based non-domestic violence, contrary to Article 14 of the European Convention on Human Rights ("ECHR") read with Article 8 ECHR; and (b) in introducing and maintaining the Residence Criterion it has failed to comply with its public sector equality duty under section 149 EA 2010. (11) And upon the parties having agreed the terms set out in the schedule to this order and that the hearing listed for 30 November 2023 can be vacated.

### Operative Paragraphs

3. The operative paragraphs of the Order state that, by consent, it is ordered that: (1) All further proceedings in this claim be stayed except for the purpose of carrying into effect the terms set out in the Schedule to this order. Permission to apply as to carrying such

terms into effect. (2) The Defendant shall pay the Claimant's costs, to be the subject of detailed assessment if not agreed. (3) The Defendant shall make a payment on account of costs in the sum of 60% of the Claimant's estimated costs, within 14 days of being provided with a statement of such costs. (4) There shall be a detailed assessment of the Claimant's legal aid costs.

### Schedule

4. The text of the Schedule to the Order is as follows. The Defendant agrees to take the following actions: (1) Within 6 months of the date of the Court approving this order, undertake a review of the Residence Criterion, in particular with regard to its impact on non-UK nationals and those who have fled gender based non-domestic violence. (2) Within 14 days of the completion of the review, notify the Claimant's solicitors of the outcome of the review. (3) Within 12 months of the completion of the review, put proposals (if any) for amendment of the Scheme arising from that review to its executive. (4) With immediate effect, and until the coming into effect of any amendment to the Scheme as set out above, disapply the Residence Criterion to all current and future applicants to join its housing register who are non-UK nationals with refugee status in the UK and/or applicants who have fled gender based non-domestic violence. (5) Within 14 days, publish the following notice on the relevant page(s) of its website: "Since 27/11/2023 the Council has decided to disapply the Residence Criterion to all current and future applicants to join the Council's housing register who are non-UK nationals with refugee status in the UK and/or applicants who have fled non-domestic gender-based violence pending review and completion of any amendment to the Allocation Scheme".

1.12.23