

# HXA (Respondent) v Surrey County Council (Appellant)

**Case ID: 2022/0149**

## Case summary

### Issue

In each of the appeals, is it arguable that the local authority Appellant owed the Respondent (a minor at the relevant times) a common law duty of care to protect them from harm on the basis that the Respondent had assumed responsibility to protect them from such harm?

### Facts

This case joins two separate appeals by the local authority Respondents. In each case, the Respondent alleged that the Appellant owed them a duty of care to prevent harm that was done to them by their parents, on the basis that the Respondent had assumed responsibility to prevent that harm. In each case, the first instance judge struck out the claim, but the Court of Appeal overturned that decision and allowed each claim to proceed to trial. The facts as pleaded by the Appellants are summarised below. The parties accept that these facts must be assumed to be provable for the purposes of the strike-out applications.

HXA was born in March 1988. The Appellant ("SCC") was involved with HXA's family from September 1993. A child protection conference ("CPC") was held in July 1994, at which HXA and her three sisters were placed on the child protection register under the category "neglect". In November 1994: (i) a referral was made to SCC alleging that HXA had been assaulted by her mother; (ii) a SCC social worker decided to seek legal advice with a view to initiating care proceedings; and (iii) SCC resolved to undertake a full assessment but did not do so. The children were de-registered in January 1995.

Around July 1996, HXA's mother formed a relationship with a male ("LA"), who moved into the house. All the children except HXA were re-registered in November 1996. In Spring 1999, HXA reported to a school dinner lady that LA came into the bathroom while she was in the bath. The report was passed to the headteacher, but no further action was taken. In January 2000, SCC received a referral from HXA's school: a friend of HXA had alleged that LA had touched HXA intimately. At a January 2000 CPC: (i) SCC decided not to investigate the report further due to concern about LA's reaction and an incorrect belief there were no previous concerns; and (ii) SCC resolved to conduct "keeping safe" work with HXA and her sisters, but that work was not carried out. In January 2009, LA was convicted of raping HXA, and HXA's mother was convicted of indecently assaulting her.

YXA was born in November 2001 and lived in the Appellant ("WCC")'s area from August 2007. YXA has epilepsy, learning disabilities and autism. Assessments were conducted by WCC in November and December 2007. YXA's needs and concerns about his parents' ability to meet them were identified. A paediatrician was concerned that YXA was being incorrectly medicated by his parents and recommended that he should be taken into care. From April 2008, WCC accommodated YXA for one night every fortnight and one weekend every two months, with the parents' agreement. Concerns remained about the parents' ability to meet YXA's needs. In December 2009, YXA was received into care with his parents' agreement. Care proceedings were later commenced, culminating in a final care order in March 2011.

### Judgment appealed

[\[2022\] EWCA Civ 1196](#)

**Parties****Appellant(s)**

Surrey County Council

**Respondent(s)**

HXA

**Appeal****Justices**

Lord Reed, Lord Briggs, Lord Sales, Lord Burrows, Lord Stephens

**Hearing start date**

24 October 2023

**Hearing finish date**

25 October 2023

**Watch hearing**

24 October 2023 [Morning session](#) [Afternoon session](#)

25 October 2023 [Morning session](#)