Editorial review

It has not been the best quarter for children.

In *CN and GN v Poole Borough Council* [2017] EWCA Civ 2185, (2018) 21 CCLR 5, the Court of Appeal overruled its own earlier decision in *D v East Berkshire Community NHS Trust* [2003] EWCA Civ 1151 that local children's services authorities did not owe a duty of care in negligence to children, to protect them from harm from third parties.

In *East Sussex County Council v KS* [2017] UKUT 273 (AAC), (2018) 21 CCLR 33, the Upper Tribunal held that the First-tier Tribunal had erred in law when it required a particular school to be named on a child's EHC plan, in circumstances where the school required clinical fees to be paid and the local authority had no power to pay these and the CCG declined to do so; so the outcome was unworkable.

In *R (JK) v Secretary of State for the Home Department* [2017] EWCA Civ 433, (2018) 21 CCLR 55, the Court of Appeal decided that it was not even realistically arguable that, when deciding on the level of asylum support for families, the Secretary of State for the Home Department had to take, as a starting point, what level of support was needed in the best interests of the child.

In *R (Stewart) v Birmingham City Council* [2018] EWHC 61 (Admin), (2018) 21 CCLR 174, it had been lawful for the local authority to conclude that the children of the family were not children in need on account of destitution, in the light of parental lack of candour. The local authority's assessment had not been unlawful, on the facts, by reason of its failure to take into account the difficulties that the parents faced in securing accommodation, by reason of the restrictions in the Immigration Act 2016.

On the other hand, on different facts, in *R (U and U) v Milton Keynes Council* [2017] EWHC 3050 (Admin), (2018) 21 CCLR 199, just such a failure *was* held to undermine the lawfulness of the assessments. In the *Stewart* case, it seems, there was reason to believe that the parents would be able to secure accommodation from their support network, without having to go into the market.

In *R (HC) v Secretary of State for Work and Pensions and Others* [2017] UKSC 73, (2018) 21 CCLR 127, the Supreme Court held that *Zambrano* families were not entitled to mainstream social security but did, at least, indicate that a relatively generous level of provision was needed, under section 17 of the Children Act 1989.

In *R (J and L) v London Borough of Hillingdon* [2017] EWHC 3411 (Admin), (2018) 21 CCLR 144, a disabled child's application for a judicial review of assessments of its housing needs was allowed, with the Court emphasising the importance of co-operation between housing and social services departments, so as to actively promote the child's welfare.

R (AC and SH) v London Borough of Lambeth Council [2017] EWHC 1796 (Admin), (2018) 21 CCLR 76 held that Lambeth had failed to properly assess the needs of a child that it had accepted was an autistic child in need, having focussed on the failings of the child's mother.

In *R (Agyemang) v Haringey LBC* [2017] EWCA Civ 1630, (2018) 21 CCLR 101, no order for costs was made because the claimant had only succeeded to a limited extent; it was however determined that, in principle, it was reasonable for a claimant who had lodged proceedings to leave the court to issue them, without seeking to withdraw them in the light of an acceptable settlement offer made shortly after lodging them.

In *R (Care England) v Essex CC* [2017] EWHC 3035 (Admin), (2018) 21 CCLR 109, the local authority's care home fee-setting exercise had been sufficiently informed and was, therefore, lawful.