Editorial review

In *Williams and another v London Borough of Hackney* [2018] UKSC 37, (2018) 21 CCLR 589, the Supreme Court (Justices Hale, Kerr, Wilson, Carnwath and Black) held that if a parent delegated the exercise of their parental responsibility for a child to the local authority, under Children Act 1989 s20, such delegation had to be real and voluntary. The best way to ensure that was by informing the parent fully of their rights under section 20; however, delegation could be real and voluntary without being informed. Where a local authority stepped into the breach to exercise its powers under section 20 in circumstances where there was no-one with parental responsibility for the child, the child was lost or abandoned, or the parent was not offering to look after the child, active consent or delegation was not required. If a parent with unrestricted parental responsibility objected at any time pursuant to section 20(7), the local authority could not accommodate the child under section 20 regardless of the suitability of the parent or of the accommodation which the parent wished to arrange.

In the Report on an Investigation into a Complaint Against Dorset County Council (17 009 793), (2018) 21 CCLR 564; the Local Government and Social Care Ombudsman found maladministration where the council failed to advise a mother properly about the consequences of signing an agreement under Children Act 1989 s20 and did not take adequate or appropriate action to ensure her child's safety and well-being while in the council's care. The council's failure to record how it explained the process and outcome of section 20 to Mrs X also amounted to maladministration. This did not mean, however, that the decision to accommodate her child was wrong, and it did not cause the mother an injustice.

In *R (TDT) v Secretary of State for the Home Department* [2018] EWCA Civ 1395, (2018) 21 CCLR 525, the Court of Appeal (Underhill, Floyd, Gloster LJJ) held that the Secretary of State for the Home Department had breached Article 4 of the European Convention on Action against Trafficking in Human Beings 2005 by releasing a Vietnamese national, who was a potential victim of trafficking, from administrative detention without having put in place adequate measures to protect him from being re-trafficked. There had been sufficient evidence to give rise to a credible suspicion that he was a trafficking victim and there was a real and imminent risk of re-trafficking if released.

In *Knowsley Metropolitan Borough Council v Ms X, Mr Y, Mr Z and the children A, B, C and D* [2018] EWFC 42, (2018) 21 CCLR 397, HHJ Clive Baker held that a local authority had approached the National Minimum Standards (NMS) for Fostering incorrectly when assessing the placement of two children with their grandparents. Rather than determining that the grandparents had not met the standards, it should have first asked whether the placement was in the children's welfare interests and what legal structure for that placement would best meet their welfare needs. The NMS was not a means by which potential foster carers should be excluded from the role without first considering whether they could be supported to meet the standards.

In *R (MG) v London Borough of Brent* [2018] EWHC 1777 (Admin), (2018) 21 CCLR 504, DHCJ Kovats QC held that it could be lawful, in an appropriate case, to reduce a person's care package after undertaking an assessment (or doing everything reasonably possible to undertake an assessment) but before completing a new care plan.

In *WB v W District Council* [2018] EWCA Civ 928, (2018) 21 CCLR 570, the Court of Appeal (Arden, Lewison, Asplin LJJ) held that it was unnecessary to consider whether the Housing Act 1996 could be construed compliantly with the ECHR, so that a housing application could be made on behalf of a homeless person with a mental disability,

because the Mental Capacity Act 2005 now provided a judicial process for making or supervising decisions about where a person with mental incapacity should live and for entering into a tenancy agreement on that person's behalf.

In *R (Wolverhampton Council) v South Worcestershire Clinical Commissioning Group and Shropshire Clinical Commissioning Group* [2018] EWHC 1136 (Admin), (2018) 21 CCLR 554, Garnham J held that a CCG had no power to fund a patient's care in a residential specialist home because the patient did not fall within paragraph 3 of Schedule 1 to the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 and, therefore, the CCG could not have been acting unlawfully in declining to provide such funding.

In *R (Dr Colin Hutchinson, Professor Allyson Pollock, Professor Sue Richards and Dr Graham Winyard) v Secretary of State for Health and Social Care and The National Health Service Commissioning Board* [2018] EWHC 1698 (Admin), (2018) 21 CCLR 446, Green J held that it was lawful for the Secretary of State for Health and Social Care to promote a new model for the provision of health and social care, through Accountable Care Organisations.

In *R (KS and AM) v London Borough of Haringey* [2018] EWHC 587 (Admin), (2018) 21 CCLR 487, HHJ Walden-Smith held that, where a local authority's children's services department had identified that a child's welfare was at risk from her unsuitable accommodation and that she and her family needed rehousing and it requested the housing department's assistance under Children Act 1989 s27, the housing department had to give proper weight to the welfare assessment and consider whether satisfying the request would unduly prejudice the discharge of its statutory duties. It should further consider whether the housing allocations policy contained a discretion to award additional priority to those who would not normally fall within the categories of most urgent housing need.