

R (Willmott) v Eastbourne Council: High Court rules council can deny social housing to disabled ex-tenant over anti-social behaviour

28 March 2024  Ryan Wise

The High Court has handed down judgement in a judicial review challenge concerning Eastbourne Council's social housing allocations scheme - R(Willmott) v Eastbourne [2024] EWHC 113.

In this case, the Claimant had autism and ADHD. The Claimant also had a history of alcohol dependency and experience of domestic abuse. The Claimant was evicted from her home due to reports she was causing anti-social behaviour at the property. The Claimant applied to re-join the Council's social housing allocation scheme following her eviction but was refused based on her history of anti-social behaviour.

Council's policy on anti-social behaviour

According to the Council's policy they were entitled to refuse applicants whose anti-social behaviour was serious enough to make them unsuitable to be a tenant. This included any behaviour that would entitle the Council to a possession order under certain grounds contained in the Housing Act 1985. As the Council had already obtained a possession order due to the Claimant's behaviour, they refused the Claimant's application in accordance with their policy.

Judicial review grounds

The Claimant brought a judicial review claim on six grounds. Three of her grounds alleged different forms of disability discrimination under the Equality Act 2010 and the other three challenged the clarity and flexibility of the rejection policy on public law grounds.

The Claimant relied on her own medical evidence as well as research by the Bureau of Investigative Journalism and the Disability Rights Commission to try and establish a link between autism, ADHD and housing related anti-social behaviour.

High Court's ruling

The High Court acknowledged that there is very little publicly available evidence linking neuropsychiatric disabilities and housing related anti-social behaviour. The High Court held that the research provided was insufficient to show a link between autism, ADHD and anti-social behaviour. Further, they held that the Claimant had not proved a connection between her own disabilities and the effect they had on her behaviour. The High Court concluded the Council's policy was sufficiently flexible and there was no requirement for decision makers to exercise the discretion available to them within the policy.

Implications for local authorities

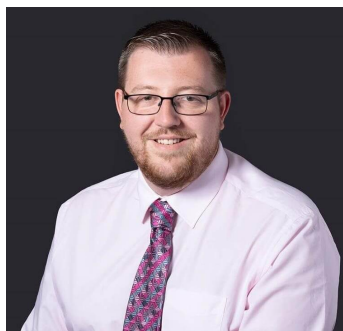
The High Court decision is a positive one for local authorities with problematic former tenants relying on their disabilities to obtain social housing. The decision may act as a deterrent against anti-social behaviour given the risk of not being re-housed but it must be acknowledged that there is a complex interplay between mental health conditions and anti-social behaviour. That does not however mean that mental health conditions will automatically create an obligation to re-house a tenant despite their potential for continued anti-social behaviour.

Where a tenant has been evicted from their property for causing housing related anti-social behaviour, local authorities can exclude them from re-joining the social housing register provided there is not a sufficient link between the tenant's disabilities and the behaviour caused.

Review of policies recommended

The drafting of the Council's policy was criticised, although not fatal to their case and so local authorities should check their policies to make sure they are appropriately and clearly drafted.

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