

CO/5939/08

Neutral Citation Number: [2008] EWHC 1702 (Admin)  
IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ADMINISTRATIVE COURT

Royal Courts of Justice  
Strand, London WC2A 2LL

Date: 18/07/2008

Before:  
JAMES GOUDIE QC (DEPUTY JUDGE)

-----

B E T W E E N :

THE QUEEN (on the application of)  
LIVERPOOL CITY COUNCIL

Claimant

- and -

LONDON BOROUGH OF HILLINGDON

Defendant

- and -

AYAN KHAN

Interested Party

-----

Date of Hearing: 9<sup>th</sup> July 2008  
(Transcript of the Handed Down Judgment of  
WordWave International Limited  
A Merrill Communications Company  
190 Fleet Street, London EC4A 2AG  
Tel No: 020 7404 1400, Fax No: 020 7831 8838  
Official Shorthand Writers to the Court)

-----

Bryan McGuire (instructed by City Solicitor, Liverpool City Council) for Claimant

Hilton Harrop-Griffiths (instructed by Borough Solicitor, London Borough of Hillingdon) for  
Defendant

Adam Fullwood (instructed by Jackson & Canter, Liverpool) for Interested Party

-----

**Judgment**

## INTRODUCTION

1. This is a dispute over a vulnerable young person, Ayan Khan. I shall refer to him as “AK”.

2. The dispute is primarily between two local social services authorities. They are the City of Liverpool (“Liverpool”) and the London Borough of Hillingdon (“Hillingdon”).

3. Liverpool and Hillingdon dispute as to which of them, if indeed it is not both, is responsible for AK. In particular the question arises as to which of them is to be responsible for accommodating him.

4. There is also an issue, albeit not, or not yet, between the two authorities as to whether he is a child, aged 15, or a young adult, aged 18. AK claims that he is 15. Liverpool has maintained that he is 18. Hillingdon has not adopted a position on this issue.

5. AK is not, and never has been, ordinarily resident in Liverpool. He is not, and never has been, ordinarily resident in Hillingdon. He does not have, and never has had, an ordinary residence in the United Kingdom.

## THE FACTS

6. The story starts in Pakistan. AK is a national of Pakistan. He arrived in the United Kingdom illegally and with a false passport.

7. He claimed asylum in Liverpool on 9 April 2008. Liverpool took responsibility. They carried out an age assessment.

8. His date of birth was stated to be 4 April 1993. That would make him 15.

9. However, Liverpool assessed him to be an adult. They estimated his date of birth to be 4 April 1990. That would make him over 18.

10. Based on the conclusion that AK was an adult, Liverpool referred him for assistance to, and responsibility was taken by, Home Office Agencies, the National Asylum Support Service (“NASS”) and the Border and Immigration Agency (“the BIA”).

11. The first question that arises is whether Liverpool’s responsibility ended at this stage. AK was detained and removed from Liverpool by force, not by choice.

12. AK was then accommodated by NASS in the Liverpool area and then detained, firstly, in Oxfordshire, at Campsfield Detention Centre, a facility for

adults, and then in Hillingdon's area, at the Harmondsworth Detention Centre, another facility for adults. No one suggests that Oxfordshire County Council had any responsibility.

13. AK, however, continued, in Oxfordshire and in Hillingdon, to maintain that he was a child. On this basis, on 21 (or 24) April, by when AK was at Harmondsworth, a referral was made by the Home Office to Hillingdon, requesting an age assessment. The second question is whether Hillingdon had a responsibility at this stage.

14. Also, AK's Solicitors obtained a report from a Consultant Paediatrician, Dr Birch, concerning AK's age. She concluded that his stated date of birth was correct. This would make him a child. That was on 6 May 2008.

15. Meanwhile, on 28 April 2008, AK's asylum claim was dismissed. He appealed.

16. The Immigration Judge, on 7 May 2008, dismissed his asylum appeal. However, the Immigration Judge accepted the Report of Dr Birch and treated AK as a child.

17. The Home Office then sought urgently to release AK from the adult facility at Harmondsworth into Hillingdon's care. On Friday 9 May 2008 Hillingdon accepted AK temporarily into their care and accommodated him.

18. Before they did so there were communications between Hillingdon and Liverpool. Each argued that the other was responsible.

19. Hillingdon claims that Liverpool agreed that they would be responsible. Liverpool disputes this.

20. The third question that arises is whether there was any, and, if so, what agreement between Hillingdon and Liverpool, and, if so, whether it subsisted. The fourth question is whether the position between them is governed by a Joint Protocol between the Immigration and Nationality Directorate of the Home Office and the Association of Directors of Social Services ("the Protocol"). The fifth question is whether, absent there being an agreement, and absent the Protocol governing the position, Hillingdon became responsible for AK.

21. AK was interviewed by Hillingdon on 13 May 2008. He expressed to Hillingdon his wish to return to Liverpool.

22. This was in conformity with a letter AK's Solicitors had written to Liverpool on 8 May 2008. AK has connections with Liverpool, but not with Hillingdon.

23. In accordance with AK's wishes, Hillingdon took AK to Liverpool on 14 (or 16) May 2008. Hillingdon left him there.

24. Liverpool has maintained him since. They have, however, done so on the basis that he is an adult. They have also done so on the basis of maintaining that he remains the responsibility of Hillingdon.

25. AK has reinforced his wish to be in Liverpool's area, but as a child, in proceedings that he has brought against Liverpool. The issue of his age remains unresolved. Neither Hillingdon nor Liverpool has embarked upon an assessment. AK has asked Liverpool to carry out an assessment. He has not asked Hillingdon to do so. I am not concerned with whether Liverpool's assessment, or the report of Dr Birch and the conclusion of the Immigration Judge, is right.

26. All this gives rise to the sixth, seventh, eighth and ninth questions. Did Hillingdon remain responsible? If they did, what is the consequence of that so far as AK is concerned? (I am not concerned with any consequences as between the authorities.) Did Liverpool become responsible again, regardless of whether

or not Hillingdon remained responsible? Pending the completion of the age assessment, should AK be accommodated as an adult or as a child?

### THE STATUTORY FRAMEWORK

27. The Children Act 1989 (“CA 1989”) relates of course to children. “Child” is defined, by Section 105(1), as (broadly) a person under the age of 18. CA 1989 does not, however, address the position where there is a dispute as to whether a person is under the age of 18.

28. Part III of CA 1989 (Sections 17-30 inclusive) relates to local authority support for children and their families. Sections 17-19 relate to provision of services for children and their families; Sections 20-21 to provision of accommodation for children; and Sections 22-23 to duties of local authorities in relation to children “looked after” by them. Sections 26-30 are supplemental provisions.

29. Section 17 imposes a general duty upon every local authority (as defined), in addition to other duties imposed upon them. By Subsection (1)(a) the general duty includes safeguarding and promoting the welfare of children “within their area” who are in need.

30. Subsection (2) of Section 17 provides that, for the purpose principally of facilitating the discharge of their general duties under Section 17, every local authority shall have the specific duties and powers set out in Part I of Schedule 2. Paragraph 3 in Part I of Schedule 2 provides that where it “appears” to a local authority that a child “within their area” is in need, the authority may “assess” his needs for the purposes of CA 1989, at the same time as any assessment of his needs is made under other legislation.

31. Section 17 (4A) provides that before determining what (if any) services to provide for a particular child in need in the exercise of functions conferred on them by Section 17, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare, ascertain the child’s wishes and feelings regarding the provision of those services; and give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.

32. Section 17(6) states that the services provided by a local authority in the exercise of functions conferred on them by Section 17 may include providing accommodation.

33. Section 20(1) imposes a specific duty upon local authorities to provide accommodation. The duty is owed to any child in need “within their area” who appears to them to require accommodation “as a result of” -



- “(a) there being no person who has parental responsibility for him;
- (b) his being lost or having been abandoned; or
- (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.”

34. Section 20(2) and (6) provide:-

“(2) Where a local authority provide accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within -

- (a) three months of being notified in writing that the child is being provided with accommodation; or
- (b) such other longer period as may be prescribed.”

“(6) Before providing accommodation under this section, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare -

- (a) ascertain the child's wishes regarding the provision of accommodation; and
- (b) give due consideration (having regard to his age and understanding) to such wishes of the child as they have been able to ascertain.”

35. Section 27 of CA 1989 provides for co-operation between authorities. Section 30(2) of CA 1989 makes further provision in relation to the determination of the ordinary residence of a child. Other legislation of course relates to the duties of authorities with regard to vulnerable adults.

#### LA CIRCULAR

36. On 2 June 2003 the Department of Health issued Local Authority Circular LAC (2003) 13 (“the Circular”). That includes the following (emphasis supplied):-

“Before deciding which section of the Children Act 1989 provides the appropriate legal basis for provision of help or support to a child in need, a local authority should undertake an assessment in accordance with the statutory guidance set out in the *Framework for the Assessment of*

*Children in Need and their Families*, published by the Government in April 2000. It should then use the findings of that assessment, which will include taking account of the wishes and feelings of the child (as required by section 20(6) of the Children Act), as the basis for any decision about whether he should be provided with accommodation under section 20 (and therefore become looked after) or whether other types of services provided under section 17 of the Act are better suited to his circumstances.

The assessment should first determine whether the child meets the criteria set out in section 20(1). ...

While the needs assessment is being carried out, he should be cared for under section 20.”

“Where a Social Services Department provides help under section 17 which involves providing or funding accommodation out of their own area, the placing Department does not relinquish responsibility for the case unless it is specifically and formally transferred to another local authority. In addition, the placing authority should consider whether it is the child’s best interests to advise the second authority of the placement, and should do so unless there are strong reasons not to.”

#### CASE LAW

37. Helpful guidance as to age assessments was provided by Stanley Burnton J, as he then was, in R(B) v Merton LBC [2003] 4 All ER 280.

38. In R(G) v Barnet LBC [2004] 2 AC 208 the House of Lords held that the general duties conferred on a local social services authority by Section 17(1) of CA 1989 were not owed to each and every child individually; and that, consequently, the authority was not under a mandatory duty, pursuant to Section 17(1) to meet every individual child's assessed needs, regardless of resources. Lord Scott of Foscote said, at paragraph 117, in relation to paragraph 3 in Part I of Schedule 2 to CA 1989:-

“It is, I think, implicit in this provision that the local authority will assess the actual needs of a child in need whenever it appears necessary to do so.”

39. In R(M) v Lambeth LBC [2008] EWHC 1364 (Admin) Bennett J held, inter alia, that the doctrine of precedent fact does not apply in respect of a local authority's assessment of age; and that the decision upon age of an Immigration Judge is not binding, and may be departed from if there are sound reasons to do so.

## THE SANDRA STEWART CASE

40. The relevant statutory expression for crystallising responsibility is “within their area”. Jack Beatson QC, as he then was, held in R v Wandsworth LBC, ex parte Sandra Stewart [2001] EWHC Admin 709, [2002] 1 FLR 46 (“the Sandra Stewart case”) that “within their area” means that “physical presence” is required. See paragraph 23 of the Judgment where Beatson J said that the concept has a “geographical or physical meaning”.

41. In that case the children were held to be within the areas of two neighbouring Boroughs, one, Lambeth, where the hostel in which they resided was located, and one, Wandsworth, where the schools they attended were.

42. They were not, however, in addition held to be within the area of a third London Borough, Hammersmith, which had placed the family outside their own area in the hostel, having done so as a temporary measure whilst making enquiries pursuant to their duties to the homeless under the housing legislation.

43. At paragraph 22 Jack Beatson QC had said:-

“With regard to dumping or “passing the buck”, there was no suggestion that Hammersmith had, in the present case, decided to accommodate the Stewarts in Lambeth in order to get rid of any statutory duties it had. It

was accepted by Mr Giffin that if it had done so it would have exercised its powers for an improper purpose ...”

44. At paragraph 26 Jack Beatson QC said:-

“The limited and temporary nature of Hammersmith’s duty also distinguishes this case from the cases where an authority accommodates children in need in the area of another authority to have access to specialist services or to be close to particular relatives pursuant to a duty which is not so limited and temporary. As Mr Giffin conceded, an authority under a duty to provide services cannot bring that duty to an end by transferring a person to the area of another authority.”

45. At paragraph 28 Jack Beatson QC said:-

“Requiring physical presence is a clearer test than a purposive approach under which the nature and duration of the presence, or the responsibilities of the different authorities in the frame are taken into account. While physical presence may, as in the present case, involve more than one authority being subject to the duty, I do not consider that an objection. There are, for example, children who are accommodated for part of the week with one parent and partly with the other parent who lives in a different local authority. As Mr Knafler submitted in reply, the

absence of a dispute resolution procedure such as that in section 30 in respect of the “ordinary residence” of a child supports the view that a section 17 duty may lie on more than one authority. In a case where more than one authority is under a duty to assess the needs of a child, there is clearly no reason for more than one authority to in fact assess a child’s needs and there is a manifest case for co-operation under section 27 of the Children Act and a sharing of the burden by the authorities.”

46. At paragraph 29 Jack Beatson QC said:-

“I, however, reject Mr Giffin’s submission that physical presence, although necessary, is not sufficient, and that the need must co-exist with the presence. This latter factor may not be apparent when an authority is approached by a person physically within its area and asked to make an assessment and requires further investigation of the sort deprecated by Mr Giffin. Moreover, as Mr Knafler stated, it may exclude a section 17 duty in respect of children of gypsies and travellers, and children on the run. It would also not eliminate the possibility that more than one authority might be under a duty; it would not, for example, do so in the case of children who are partly accommodated with one parent in one borough and partly with the other parent in a different borough. While consideration of whether the need co-exists with the presence may well be relevant in a case where more than one authority is under a section 17

duty and an assessment has been made, and the issue is which, if any authority might provide a given service, I do not consider it to be a prerequisite for the duty to assess. The duty under section 17 is to assess the needs of the child and “need” in section 17(10)(a) includes situations in which a child is unlikely to maintain a reasonable standard of health or development without the provision of services by “a” local authority. The provision is not restricted to services that would be provided by the authority making the assessment.”

47. Jack Beatson QC continued, at paragraph 30, that, for the foregoing reasons, Lambeth and Wandsworth came under a duty, under Section 17 of CA 1989, to assess Ms Stewart’s needs, but Hammersmith did not. Then, at paragraph 31, he said:-

“The next question is whether either Lambeth or Wandsworth have failed to do something they were under a duty to do. Wandsworth’s position, as I have stated earlier in this judgment, was that notwithstanding the children’s physical presence at Wandsworth schools, they were not in need in Wandsworth and therefore it was not under a section 17 duty. Mr Giffin submitted that since the children were accommodated in Lambeth it was not Wednesbury unreasonable for Wandsworth not to provide accommodation, and it was not therefore in breach of its duty under section 17. This, however, goes to the content of the duty and



what needs to be done by the authority with the children within its area and what services need to be provided by it rather than to the identification of the authority with a duty to assess. ...”

48. Jack Beatson QC in the Sandra Stewart case made a mandatory order requiring Lambeth and Wandsworth to assess the needs of the claimant and her children according to law. He stated that, in a case such as Sandra Stewart, there is a manifest case for co-operation pursuant to Section 27 of CA 1989 between the authorities making the assessment.

#### THE ISSUE

49. It is common ground that a further age assessment is required, and that AK needs to be accommodated, at the very least during the assessment process. No one advocates that both authorities should carry out the assessment or assessments or somehow jointly provide the accommodation.

#### THE FIRST QUESTION

50. Liverpool’s initial responsibility must have ceased when AK was no longer within their area, having been detained by the BIA and removed to adult immigration detention facilities outside Liverpool. There is no basis for contending to the contrary. None was identified by Hillingdon.

51. Nor can Liverpool's responsibility have revived when the Immigration Judge concluded that AK was a child and the immigration authorities sought to and did remove him from adult detention in Harmondsworth. Again there is no basis for contending to the contrary. None was identified by Hillingdon.

52. Liverpool's responsibility had ended. Hillingdon was in error in believing the contrary.

#### THE SECOND QUESTION

53. On the contrary, Hillingdon may have had a responsibility when AK was in Harmondsworth and the Home Office made a referral to Hillingdon with a view to further age assessment. Whether Hillingdon did have a responsibility at that stage is academic having regard to subsequent events.

54. However, Hillingdon was in error in declining to undertake an assessment on the basis that it was for AK to challenge Liverpool's assessment, with Hillingdon's role being confined to assisting Liverpool with the logistics of assessment.

#### THE THIRD QUESTION

55. Between 7 and 9 May 2008 there were telephone calls between Liverpool and Hillingdon. On 9 May 2008, Paula Neil, Service Manager for Asylum Hillingdon, having been briefed by Elizabeth Hearst, Team Manager, Asylum Intake Team, rang Gail Martin, Team Manager, Liverpool. Paula Neil's Witness Statement says as follows:-

"11. ... I restated Hillingdon's position. Ms Martin confirmed that she was aware of a Tribunal decision and a paediatrician report, both of which concluded that AK is a minor. Ms Martin also confirmed that Liverpool were in receipt of a letter from AK's solicitor informing them that AK wished to return to Liverpool.

12. I suggested to Ms Martin that in the interest that AK may be a minor, I could arrange for his release into accommodation over the weekend provided by Hillingdon with a view to Liverpool making arrangements to reassess him. Ms Martin thanked me for this. I subsequently emailed her confirming our discussion. Ms Martin has never responded to this email or indicated that she did not accept its content.

13. Arrangements were made for [AK] to be released from Harmondsworth on the evening of Friday 9 May. This was

facilitated by our Emergency Duty Team. He was placed in accommodation over the weekend.

14. Hillingdon Social Services provided accommodation under S17. No assessments were undertaken as it was our belief that we were providing accommodation only for [AK] pending Liverpool Social Services arranging to reassess him.
15. On the next working day, Monday 12 May, Elizabeth Hearst made several attempts to make direct contact with Liverpool's Team manager and received no response.
16. On 13 May a social worker from Liverpool relayed a message from the manager to Ms Hearst stating that Liverpool were not accepting responsibility.
17. On 13 May [AK] was interviewed by a social worker in Hillingdon Asylum Intake Team during which he made it clear he wanted to return to Liverpool. The worker also phoned [AK's] solicitor who confirmed that his client wished to return to Liverpool and that a letter had been sent to Liverpool requesting this but Liverpool had not responded.

18. On 13 May Hillingdon Social Services legal department faxed a letter to Liverpool's legal department outlining our position and their responsibilities and stating that the young person wished to return to Liverpool."

56. Paula Neil's e-mail to Gail Martin at 16:41 on 9 May 2008 was as follows:-

"Further to our telephone conversation I have agreed in principle that our Service will provide accommodation for the above named young person pending a re-assessment of his age. It is our contention that any re-assessment of age should be undertaken by Liverpool as the original assessing authority. I look forward to this matter being resolved at the earliest opportunity and Team Manager Beth Hearst will continue to liaise with you about this."

57. On the morning of 12 May 2008 Elizabeth Hearst e-mailed Gail Martin as follows:-

"Just to confirm that the above young person was taken out of detention Friday night and provided with accommodation as per the agreement you reached with Paula. What can we do to further assist you with this

matter today? The young person is clear that he wants to return to Liverpool as soon as possible.”

58. That afternoon Elizabeth Hearst sent another e-mail to Gail Martin as follows:-

“Do you have a direct work number I can reach you on? I’ve tried phoning over 4 times throughout the course of today on the main number given to us, 01512258620, and no one is picking up. As Paula said we would like to resolve this matter as soon as possible.”

59. On the morning of 14 May 2008 Elizabeth Hearst e-mailed Gail Martin as follows:-

“I understand from your social worker who phoned me yesterday that you have access to your e-mails. Attached is a copy of the letter sent from our legal department to yours yesterday. Our position and your responsibilities are outlined very clearly. We are advising the young person to present to your office.”

60. I conclude that there was no agreement by Liverpool that they would take responsibility. Each authority was contending that the other was responsible. This dispute was not resolved on 9 May. All that was resolved that afternoon

was that Hillingdon would provide very temporary accommodation pending early resolution of the dispute. It had not, however, been resolved by 14 May.

#### THE FOURTH QUESTION

61. In that dispute Liverpool had sought to rely on the Protocol. The relevant part of the Protocol, under the heading “Conflicting LA assessments”, begins by reciting that local authority responsibility is tied to geographical boundaries. It observes that it is therefore possible that an asylum seeker moving across boundaries may seek age assessments from more than one local authority.

62. That is not this case. AK did not seek an age assessment from Hillingdon. The Home Office was not his agent.

63. The Protocol continues that in some cases the assessments may not agree. That is not the case. There has been only the one assessment, albeit that there has since been an authoritative finding, but not by Hillingdon, contrary to Liverpool’s assessment.

64. The Protocol states that the intention is to reduce unnecessary repetition of the assessment process. The Protocol continues by way of guidance:-

“A LA approached for an age assessment should check whether any previous assessment has been carried out by another LA. The host LA should request a copy of the age assessment from the original LA and base further action on the content.

In the event that no new evidence is being brought forward that was not considered at the original assessment, the issue should be treated as a complaint about the original assessment and referred to the LA responsible for it.

In the event that new evidence has been brought forward the host LA should continue to reassess the age of the applicant taking full account of all sources of information.”

65. I conclude that the Protocol does not cover or appear to contemplate the situation that has arisen in AK’s case. Hillingdon has not been approached by AK for an age assessment. Hillingdon has not embarked upon a reassessment.

#### THE FIFTH QUESTION

66. Hillingdon did, however, become responsible for AK. He was discharged within their area. They accommodated him from 9 May. They interviewed him on 13 May. They assisted him thereafter.



### THE SIXTH QUESTION

67. Nonetheless, AK then left Hillingdon's area, fully in accordance with his undoubted wishes, and went where he clearly and firmly wanted to go, assisted by Hillingdon. Hillingdon's responsibility in its turn ceased once AK had returned to Liverpool.

68. Had he made the journey without Hillingdon's assistance, Hillingdon would no longer have been responsible. It makes no difference that they assisted him.

69. This is not a case of Hillingdon acting for any improper purpose. They believed, rightly or wrongly, that they were not responsible. They believed, rightly, that they were giving due consideration to AK's wishes and feelings.

### THE SEVENTH QUESTION

70. Hillingdon owed a duty to AK, which they could not insist was taken over by another authority. That does not, however, mean that AK was bound to accept that only Hillingdon could discharge the duty.

### THE EIGHTH QUESTION

71. Even, however, if Hillingdon acted wrongly, and are seeking to take advantage of their own wrong, and even if the consequence is that Hillingdon remain responsible, on the basis that the duty to reassess crystallised when AK was in their area, and was an ongoing duty, it does not follow that Liverpool is not responsible. On the face of it, Liverpool plainly is. AK is within their area.

72. More than one authority may be responsible at the same time. This is not necessarily confined to the situation where there is, as in the Sandra Stewart case, a simultaneous connection with two authorities.

73. A critical issue is whether, if Hillingdon were responsible, that meant that Liverpool did not become responsible when AK was within Liverpool's area. Mr McGuire argues that AK did not require accommodation from Liverpool "as a result of" any of (a), (b) or (c) in Section 20(1) of CA 1989.

74. Mr McGuire submits that AK did not require accommodation from Liverpool, because all that AK needed was to be informed by Liverpool that Hillingdon should provide him with accommodation. I reject that submission.

75. If Liverpool knew that someone else would provide accommodation, then they might very well conclude that it was not required from them. That is

not this case. Pointing a putative child in the direction of a potential alternative provider who does not agree to make provision is not good enough.

76. Mr McGuire submits that AK does not require accommodation as a result of any of (a), (b) or (c) in Section 20(1) of CA 1989, even though he is an unaccompanied asylum seeking putative child, because his requirement for accommodation is “as a result of” another factor, namely Hillingdon having deposited AK within Liverpool’s area. I reject that submission.

77. AK is a putative child in need within Liverpool’s area who requires accommodation as a result of there being no person who has parental responsibility for him. This is so irrespective of how AK came to be in Liverpool again.

#### NINTH QUESTION

78. Moreover, pending completion of the further age assessment that is required on account of the Immigration Judge’s holding that AK is a child, AK should be accommodated as a child, in accordance with the Circular.

#### CONCLUSION

79. Liverpool's case is arguable. I have granted permission for them to apply for judicial review.

80. Ultimately I reject their challenge. I do so for two reasons.

81. First, in my judgement, Hillingdon ceased to be responsible when AK returned to Liverpool.

82. Alternatively, even if Hillingdon remained responsible, Liverpool also became responsible. However, as a matter of discretion, I would not order Hillingdon and Liverpool to act jointly, and I would not order Hillingdon to act rather than Liverpool, having regard to all the circumstances, not least the interests and wishes of AK himself, which appear to coincide.

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ADMINISTRATIVE COURT  
Neutral Citation Number: 2008 EWHC 1702 (ADMIN)  
JAMES GOUDIE QC (DEPUTY JUDGE)

CO/5939/08  
Royal Courts of Justice  
Strand, London WC2A 2LL

Date: 18/07/2008

B E T W E E N :

THE QUEEN (on the application of)  
LIVERPOOL CITY COUNCIL

Claimant

- and -

LONDON BOROUGH OF HILLINGDON

Defendant

- and -

AYAN KHAN

Interested Party

---

---

JUDGMENT

---

---

Bryan McGuire (instructed by City Solicitor, Liverpool City Council) for  
Claimant

Hilton Harrop-Griffiths (instructed by Borough Solicitor, London Borough of  
Hillingdon) for Defendant

Adam Fullwood (instructed by Jackson & Canter, Liverpool) for Interested Party