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R (S) v Social Security Commissioner, Secretary of State & Walsall MBC [2008] EWHC 3097 (Admin)

Case law

Case law date	19/12/2008
Commission/Judge	HHJ Bidder QC (sitting as a Deputy High Court Judge)

Challenge to the decision in R(H) 2/07 by way of judicial review - the permission decision

This was the claimant's application for permission to judicially review the Commissioner's refusal of leave in CH/2751/2007. See earlier decision for the factual background.

The High Court granting permission for the claim to proceed having regard to the broader interpretation given to the phrase "on behalf of" both in the Court of Appeal decision Gaspet Ltd v Elliss (Inspector of Taxes) [1987] 1 WLR 769 and in the criminal case of R v O'Loughlin [1988] 3 All ER 431. These indicated that in order to come within the statutory phrase, it was sufficient if the person to be acting for the benefit of or on the authority of another. It was therefore arguable that on the facts in this case, the provision of care, support or supervision by the care provider (Lifeways) was for the benefit of the landlord (Rivendell) and was authorised by Rivendell. It was also relevant that the interpretation adopted in R(H) 2/07 ran directly contrary to the government's policy of encouraging vulnerable individuals such as the claimant, to live independently in the community.