



Neutral Citation Number: [2026] EWHC 1665 (Admin)

Case No: AC-2025-LON-003662

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 03/07/2026

Before :

JONATHAN RICHARDS, SITTING AS A DEPUTY JUDGE OF THE HIGH COURT

Between :

THE KING
(on the application of)
CARMEN CASTRO GUALLICHICO

Claimant

- and -

THE LONDON BOROUGH OF SOUTHWARK

Defendant

Mr M. Ahluwalia (instructed by **GT Stewart**) for the **Claimant**
Ms T. Conlan (instructed by **LB Southwark's Legal Department**) for the **Defendant**

Hearing dates: 23 June 2026

Approved Judgment

This judgment was handed down remotely at 10.00am on 03 July 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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JONATHAN RICHARDS, SITTING AS A DEPUTY JUDGE OF THE HIGH COURT

Jonathan Richards, SITTING AS A DEPUTY JUDGE OF THE HIGH COURT:

Introduction

1. This application for judicial review concerns the allocation of social housing by the Defendant pursuant to Part VI of the Housing Act 1996 (“the Act”).
2. The Defendant is a local authority, which allocates social housing primarily through a “choice based lettings” scheme (“CBL”), whereby applicants bid for advertised properties through an online system. The majority of allocations are via CBL. In parallel, the Defendant reserves the right to make direct offers to certain applicants. These direct offers are made to those on a direct offer waiting list.
3. The Claimant argues that the direct offer waiting list operated by the Defendant does not appear to follow any logical or discernible order and that households, who have had to wait less time than the Claimant, are being made offers. Further, the Claimant states that, whilst some households have been marked as having “enhanced priority”, it is difficult to conceive how the Claimant’s household has not been similarly designated given their circumstances.
4. Consequently, the Claimant has alleged that: (1) the Defendant is in breach of their direct offer procedure in the Claimant’s case; (2) the Defendant has provided insufficient transparency regarding the operation of the direct offer waiting list; and (3) the Defendant is in breach of the public sector equality duty under section 149 of the Equality Act 2010 in relation to their operation of the list.
5. Permission to bring proceedings for judicial review on all three grounds was granted by Dan Kolinsky KC, sitting as a Deputy High Court Judge, on 24 February 2026.

Background

6. The Defendant adopted the current version of their housing allocation scheme in 2013. Prior to its adoption, the authority conducted an Equality Impact Assessment. I note that the Defendant is in the process of updating their policy. However, that updated policy is yet to be formally approved; it remains in draft and has not been disclosed in these proceedings. The challenge before me is to the current version of the policy, which remains in operation. I do not therefore consider that the fact that the current policy is under review is of further relevance in this case.
7. The Claimant and her family moved to their current home (“the Property”) in 2015. The property is a two-bedroom private sector flat with a living room. At the time that they moved in, the Claimant and her husband had two sons. They now have four sons.

8. The Claimant's youngest two sons, N (born in 2016) and M (born in 2017), have been diagnosed as having autism spectrum disorder and have complex needs, including speech and language delay. N and M share a bed with their parents, with the other two boys sleeping in the other bedroom.
9. The Claimant joined the Defendant's housing register in 2018. It is not in dispute that the Claimant's current property is unsuitable for the Claimant and her family. An occupational therapist, Meera Vitarana, assessed the Claimant's needs, along with those of N and M, in January 2024 and made the following key findings in relation to their housing needs:

“12.4. N and M have significant sensory needs that need addressing prior to going to sleep and they do not have the space in the property to implement equipment needed to aid with a better sleep routine.

12.5. N and M will benefit from their own bedrooms, set up with their own sensory items to enable them to have their own space and aid the parents with developing a suitable sleep routine.

...

12.8. There is no room for I to complete his homework and piano practice except in the living room where he is consistently disturbed by his younger brothers. This is resulting in him staying up later and is impacting his ability to achieve better grades.

12.9. With the lack of space in the property, there is a limited area where the boys have access to toys. They are mainly placed in the parent's bedroom where the boys have free access, however these items can be played with during the night and can disturb other people's sleep.

12.10. The family will benefit from more space in the property, to allow the children to play in a better environment and allow for more free movement. Along with the space, the boys will also benefit from access to a secure garden as then they can run and jump, exert their energy and allow the parents to regulate their sensory needs, which can result in better sleep hygiene.

12.11. Having access to a garden will also allow [the Claimant] to have access to an external space where she can feel knowing the children are in a safe space. This will have a positive impact on her mental health as the children will have more access to movement-based activities such as a trampoline, and allow for a safer space for regulating their behaviours.

...

13.1. I recommend the following to safeguard the family's well-being in the home:

- 5-bedroom property to accommodate the family's needs. Ideally, N and M are to be placed on the ground floor however if this is not possible then the bedroom windows need to be fitted with restrictors and locks.
- The property can be a house on 2 levels.
- If a flat is located, then the ground floor is due to the risk of M attempting to leave via the window.

- To remain in the area as much as possible due to the children's school provision and support they are receiving.
- Property to have access to a private secure garden that can be locked.
- Two toilet facilities.
- Close to public transport to ensure they can access local amenities.
- Secure window locks that can only be opened with parental support.
- Secure the front door to ensure N and M do not abscond out the front door.
- Separate kitchen where the door can be closed/locked to reduce the risk of the children accessing this and climbing the worktop.
- Ensure there is a suitable living space for the family to spend leisure time together.
- To be located away from a main road as the traffic can disturb N and M's sleep."

10. It is readily apparent from the Claimant's witness statements that her continuing inability to find a suitable home is having a tangible and significant impact on both her and her family. That is not in issue in this case. I also accept that the uncertainty of the Claimant's position on the direct offers list has, at least, the potential to affect her decision as to whether to bid on or accept any offers of properties from the Defendant. However, it does not appear to me that this is of any further relevance to the issues before me, save potentially when it comes to relief. This case concerns the lawfulness and transparency of the Defendant's operation of the current version of their housing allocation scheme.
11. On 21 June 2023, the Claimant's application under Part VI of the Act was assessed and she was awarded Band 2 priority. There are 4 bands, in decreasing order of priority. Based on the medical recommendations, her housing need was assessed to include access to a garden or nearby park; a maximum of first floor, with or without a lift; an additional bedroom for N; and that locks should be fitted to doors and windows.
12. On 13 December 2023, the Claimant's housing need was reassessed as being for a 5-bedroom property. However, she continued to be permitted to bid through the CBL for both 4 and 5-bedroom properties.
13. On 28 February 2024, the Defendant confirmed to the Claimant that: "Applications identified to be made a direct offer are placed on the list in date order, noting any specific property recommendation, risk areas, category of need and the number of people and beds required. Offers are generally made in date order, having regard of the above categories and needs/risks."
14. On 29 August 2024, the Defendant confirmed that the Claimant's household had been placed on the direct offer waiting list "in date order".
15. On 11 September 2024, the Claimant issued a claim in the county court alleging a breach of the Equality Act 2010 (specifically, the failure to make reasonable adjustments). Those

proceedings were ultimately settled, with the Defendant agreeing to place the Claimant's household in Band 1 of the housing register with a priority date of 25 October 2024.

16. On 16 January 2025, the Claimant was told by the Defendant that she was in 19th position on the 4-bedroom list and 10th position on the 5-bedroom list.
17. On 1 May 2025, the Defendant confirmed that the Claimant's household had been given a medical recommendation for her future rehousing of the need for access to a private or secure garden.
18. On 15 July 2025, the Claimant was told by the Defendant that she was in 30th position on the 4-bedroom list and 16th position on the 5-bedroom list.
19. On 22 August 2025, the Defendant confirmed that: "The Direct Offer list is live. The highest position is from the top to the bottom."
20. On 13 October 2025, the Claimant was told that, in relation to direct offers made between 31 December 2024 and 28 August 2025, 7 out of 9 direct offers of 4-bedroom properties had gone to people with 0 years waiting and enhanced priority.
21. These proceedings were filed on 14 October 2025.

The statutory framework

22. The allocation of housing accommodation is dealt with in Part VI of the Act. How a scheme is framed is a question for the authority and the statutory framework imposes relatively few requirements on authorities as to the allocation of housing. Indeed, the Act sets out that, subject to the duties in Part VI, an authority may allocate housing in such a manner as they consider appropriate: section 159(7). Lord Neuberger spoke at paragraph 26 of *R (Ahmad) v Newham LBC* [2009] UKHL 14 of the "considerable discretion" afforded to housing authorities in formulating allocation policies.
23. By section 166A(1) of the Act, every local authority must have a scheme for determining priorities and as to the procedure to be followed in allocating housing accommodation. "Procedure" is stated to include all aspects of the allocation process, including the person or descriptions of persons by whom decisions are taken. It is further stated in section 166A(14) that a local authority shall not allocate housing accommodation except in accordance with their allocations scheme.
24. As regards priorities, by section 166A(3), the scheme shall secure that a "reasonable preference" is given to a number of categories of persons. This includes:

 "...
 (c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;

 (d) people who need to move on medical or welfare grounds (including any grounds relating to a disability); ..."

25. Local authorities have a wide discretion regarding the securing of reasonable preference to classes specified under section 166A(3), as was established in *R (Ahmad) v Newham LBC*. In that case, at paragraph 12, Baroness Hale said:

“No one suggests that [the Claimant] has a right to a house. At most, he has a right to have his application for a house properly considered in accordance with a lawful allocation policy. Part VI of the 1996 Act gives no one a right to a house. This is not surprising as local housing authorities have no general duty to provide housing accommodation”.

26. As such, a preference is not the same as success and it is possible for a lawful allocations scheme to give reasonable preference to a person, even if the person is never allocated accommodation; whether a preference is reasonable is a decision for the authority: *R (Lin) v Barnet LBC* [2007] EWCA Civ 132.

27. Section 166A(9) of the Act provides as follows:

“(9) The scheme must be framed so as to secure that an applicant for an allocation of housing accommodation—

- (a) has the right to request such general information as will enable him to assess—
 - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (3); and
 - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
- (b) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
- (c) has the right to request a review of a decision mentioned in paragraph (b), or in section 160ZA(9), and to be informed of the decision on the review and the grounds for it.”

28. Section 149 of the Equality Act 2010 provides as follows:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- (7) The relevant protected characteristics are—
 - age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.

The Defendant's scheme

29. The Defendant's Housing Allocation Scheme, published in November 2013, sets out how the Defendant allocates housing. It is not in dispute that the demand for social housing in Southwark far outstrips supply. Properties are let primarily by way of CBL, which requires active participation by applicants. Properties are advertised weekly with details available to collect both from various locations and online. The bidding process is outlined within the scheme.
30. Under the scheme, an applicant must first demonstrate that they qualify to be added to the housing register. An applicant's circumstances are assessed and they are placed in one of four bands (1- 4, decreasing in priority). Within those bands, priority is accorded by reference to the priority star system, whereby additional priority is recognised both for those who meet certain criteria and by date of registration.
31. Clause 1.1.10 of the Defendant's Housing Allocation Scheme also provides as follows:
- “1.1.10 Any provision in this scheme may be waived in exceptional and limited circumstances and at the discretion of the appropriate senior officer with delegated authority (as stated in the Department's Scheme of Delegations) a direct offer may be made outside of the Housing Allocations scheme. This would normally require a full report of the circumstances of the individual case to be prepared by the Group Services Manager Homelessness and Housing Options for the consideration of the delegated officer (currently the Head of Customer Experience).”
32. Clause 3.2 sets out the reasons for making direct offers to applicants in certain circumstances. It states that all applicants will have been assessed in accordance with the scheme and will be in urgent housing need. Clause 3.2 states as follows:
- “3.2 Direct offers
- 3.2.1 Whilst the majority of applicants will be housed through the Choice Based Lettings Scheme, the London Borough of Southwark may make direct offers in certain circumstances, namely to those to those applicants who have been assessed in accordance with this Housing Allocations scheme and who are therefore in urgent housing need. This is also explained in section 1.1.10 of this housing allocations scheme.
- (a) situations where urgent re-housing is required due to an existing property being uninhabitable, or where there are serious health and safety or personal protection issues that need to be addressed or in discharge of a statutory homelessness duty

- (b) in addition the London Borough of Southwark will consider other urgent housing need situations where it would not be reasonable in the circumstances to wait for the Choice Based Lettings process to take place
- (c) further in cases where a tenant has died and there is no right of succession where the London Borough of Southwark may consider re-housing an applicant who has resided and who continues to reside in the deceased person's accommodation. To re-house an applicant in these circumstances will be solely at the discretion of the London Borough of Southwark.
- (d) threat to life in the area in which an applicant currently resides
- (e) emergency cases whose homes are damaged by fire, flood or other disaster may be provided with other alternative accommodation if it is not possible to repair their existing home
- (f) households who, on police advice, must be moved immediately due to serious threats to one or more occupants of the household
- (g) to facilitate a three way (or greater) mutual exchange. Mutual exchanges are not an allocation, but where the Authority is satisfied that to do so would make best use of its housing stock and support the needs of the tenants involved, rather than a direct swap (assignment) taking place, the London Borough of Southwark may make available a property for a three-way exchange
- (h) direct offers for tenants where Ground 10 action has commenced and the vacant possession date is known to enable the estate regeneration to go forward.
- (i) an applicant who has an exceptional need that is not predicted or covered in the Housing Allocations scheme
- (j) All direct offers of accommodation will be authorised by the Group Services Manager for Homelessness and Housing Options following detailed reports received and produced by the Housing Choice Team Leader"

33. It is apparent that the circumstances in which direct offers can be made are both numerous and various. Medical need is not expressly referenced, but it could readily be encompassed either by clause 3.2(b) or (i), at least. However, it is clear that all cases on the direct offers list will be urgent.

34. Alongside this Housing Allocations Scheme, the Defendant also has an internal operational procedure ("Direct Offers – Procedure", dated 30 December 2018), which is not generally made available to the public. This sets out the following:

"1. Direct Offers

Whilst the majority of applicants will be housed through the Choice Based Lettings Scheme, the London Borough of Southwark may make direct offers in certain circumstances, namely to those to those applicants who have been assessed in

accordance with this Housing Allocations scheme and who are therefore in urgent housing need.

This will include the following:

- A. situations where urgent re-housing is required due to an existing property being uninhabitable, or where there are serious health and safety or personal protection issues that need to be addressed or in discharge of a statutory homelessness duty
- B. in addition the London Borough of Southwark will consider other urgent housing need situations where it would not be reasonable in the circumstances to wait for the Choice Based Lettings process to take place
- C. further in cases where a tenant has died and there is no right of succession where the London Borough of Southwark may consider re-housing an applicant who has resided and who continues to reside in the deceased person's accommodation. To re-house an applicant in these circumstances will be solely at the discretion of the London Borough of Southwark.
- D. dwellings adapted for applicants with disabilities
- E. threat to life in the area in which an applicant currently resides
- F. emergency cases whose homes are damaged by fire, flood or other disaster may be provided with other alternative accommodation if it is not possible to repair their existing home
- G. households who, on police advice, must be moved immediately due to serious threats to one or more occupants of the household
- H. to facilitate a three way (or greater) mutual exchange. Mutual exchanges are not an allocation, but where the Authority is satisfied that to do so would make best use of its housing stock and support the needs of the tenants involved, rather than a direct swap (assignment) taking place, the London Borough of Southwark may make available a property for a three-way exchange
- I. direct offers for tenants where Ground 10 action has commenced and the vacant possession date is known to enable the estate regeneration to go forward.
- J. in order to enable the Council to manage the supply of temporary accommodation, offers may be made directly to homeless applicants accepted by the Council under homelessness legislation, who have occupied temporary accommodation for at least 3 months
- K. an applicant who has an exceptional need that is not predicted or covered in the Housing Allocations scheme"

35. This list of reasons essentially mirrors that in the published scheme, save with the addition of category D.

36. Clause 7 of this internal procedure provides as follows:

“7. Direct offer list

Households accepted for a direct offer will be placed on a direct offers list. Priority for a direct offer will be set based on the date a household has been agreed for a direct offer.

There is no specific time frame for an offer to take place. However depending upon the urgency of the case, the relevant senior officer may make a decision to enhance the priority for a direct offer.

The list will be managed by the allocations team and monthly reports will be provided to confirm the number of direct offers compared to general housing application bids.”

Ground 1

37. A public body is under a duty to follow its own policies, except where there is a good reason not to do so (*R (Lee-Hirons) v Secretary of State for Justice* [2016] UKSC 46, at paragraphs 17 and 50). It has been recognised that the duty arises because of a principle of good administration: public bodies must act consistently and straightforwardly in what they do (see *Mandalia v Secretary of State for the Home Department* [2015] UKSC 59 at paragraphs 29 – 31, citing *R (Nadarajah) v Secretary of State for the Home Department* [2005] EWCA Civ 1363 and *R (Lumba) v Secretary of State for the Home Department (JUSTICE intervening)* [2011] UKSC 12, [2012] 1 AC 245).

38. In this case, the challenge is not to the formulation of the Defendant’s scheme, but with respect to the way it was applied in relation to the Claimant. Nor has it been suggested that the Defendant had a good reason for not applying their policy. The issue simply is whether the Defendant breached their direct offer procedure in the Claimant’s case or not.

39. In *R (Ariemuguvbe) v Islington LBC* [2009] EWCA Civ 1308, Lord Neuberger said:

“It is plainly right for the court to apply a common sense and practical approach to the interpretation of the scheme, and indeed an interpretation which allows a sensible degree of flexibility when it comes to dealing with individual cases”.

40. The approach to interpreting housing allocation schemes was further summarised by Males LJ in *R (Flores) v Southwark LBC* [2020] EWCA Civ 1697; [2021] H.L.R. 16 at paragraphs 39 and 40 (and further endorsed by the Administrative Court in *Montano, R (On the Application Of) v London Borough of Lambeth* [2024] EWHC 249 (Admin) at paragraph 67):

"39. The meaning of a housing allocation scheme, like that of any other comparable policy document, is for the court to determine (cf. in a planning context, the well-known passage from Lord Reed's judgment in *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13, [2012] PTSR 983 at [18] and [19]), but the court's approach to its interpretation should be in accordance with the guidance given by this court in *R*

(Ariemuguvbe) v Islington LBC [2009] EWCA Civ 1308, [2010] HLR 14. Sullivan LJ said:

"24. ... since this is a local authority housing allocation scheme and not an enactment, it has to be read in a practical, common sense, and not in a legalistic way."

40. Lord Neuberger MR added: "31. ... While any document prepared for public consumption should be as clear, short and simple as possible, it is particularly true of housing allocation schemes required to be prepared under [what was then] Section 167, and published under Section 168, of the Housing Act 1996. They are intended to be read by, and administered for, the benefit of people who require public housing and their families, and they are intended to be applied in multifarious different circumstances in which great difficulties can often arise. ... It is plainly right for the court to apply a common sense and a practical approach to the interpretation of the scheme, and indeed an interpretation which allows a sensible degree of flexibility when it comes to dealing with individual cases. That this approach is appropriate is reinforced by the wide discretion given to local housing authorities ..."

41. Not every departure from the strict wording of a policy will involve an error of law, because policies must be subjected to a purposive and pragmatic construction: *R (Das) v Secretary of State for the Home Department* [2014] EWCA Civ 45; [2014] 1 WLR 3538, at paragraph 47.
42. I note also that there is no requirement upon the Defendant to publish the whole of its housing allocation procedure. However, there is a general principle of administrative law that public authorities should publish a transparent statement setting out how their decisions will be reached: *R (Lumba) v Secretary of State for the Home Department* [2011] UKSC 12 per Dyson LJ at paragraph 34 (applied in the context of allocation of social housing in *R (C) v Islington* [2017] EWHC 1288 (Admin), at paragraphs 57 - 63).
43. The Claimant does not point to any provision of the published scheme that she says has been breached. Rather, she points to clause 7 of the internal procedure, together with the correspondence from the Defendant in response to communications from the Claimant, including Freedom of Information and Subject Access requests, (as referred to above) which states that priority for a direct offer will be set based on the date a household has been agreed for a direct offer. She then points to the fact that she has apparently "fallen down the queue" as between January and July 2025 and asks how this can be the case.
44. I have considered what is said in the evidence of Mr Bellot for the Defendant. Mr Bellot has explained that the date of entry onto the direct offer list is taken into account, but that that is not the sole determining factor in whether a direct offer is made; a range of factors are considered. The Defendant maintains that this statement of the position is accurate.
45. Considering Mr Bellot's evidence as a whole, I would observe that I did not find it particularly helpful. He has in a number of places mischaracterised the Claimant's claim. And at paragraph

14 of his first witness statement, he attempts to explain the information provided to the Claimant on 15 July 2025 in response to a Subject Access Request. I did not find his explanation wholly consistent. I do not consider that his evidence demonstrates a lack of candour, but it is certainly not as informative or helpful as it might have been.

46. I am required to adopt a common sense and practical approach to the interpretation of the allocations scheme. What then does the scheme say and has that been applied in this case?
47. The Defendant does not accept that I should look anywhere other than the published scheme, save potentially where there is inconsistency between the scheme and the other material available in this case. And the scheme makes no reference to direct offers being made in date order. The Claimant states that I should look at the communications between the Claimant and the Defendant and at the internal procedure, as that illuminates the meaning of the published scheme.
48. However, even taking into account the various communications between the Claimant and the Defendant, as well as the internal procedure document, the Claimant has not shown that there has been a breach of the Defendant's direct offer procedure. Indeed, the Claimant does not argue that direct offers should be made in strict date order. She accepts that there are various reasons why someone would be made a direct offer and that the circumstances of those offers are not readily comparable. She accepts that there is not a clear hierarchy in the categories of households who can be made a direct offer. Further, it is clear from the internal procedure that the relevant senior officer may make a decision to enhance the priority for a direct offer and the Claimant herself has pointed to correspondence which supports the suggestion that this is what has happened in this case, hence her "falling down the queue".
49. Looking at the scheme as a whole, I am satisfied that housing allocation is intended to and does operate principally by way of CBL. The direct offers list is an additional, discretionary route in cases of urgency. There are a variety of reasons, as set out, why a case might be considered urgent, which are not readily comparable. Priority for a direct offer is set based on the date a household has been agreed for a direct offer but, depending on the urgency of a case, a relevant senior officer may make a decision to enhance the priority for a direct offer. Indeed, it is clear from the correspondence that enhanced priority has been given to a number of households to whom direct offers of 4 and 5-bedroomed properties have been made, enabling them to be made offers prior to the Claimant. There will also be a number of questions as to the suitability to a household of the property subject to a direct offer.
50. That is how the scheme is stated to work and I do not find that there has been any breach of that procedure in this case. This ground therefore fails.

Ground 2

51. The issue here is whether the Defendant has provided sufficient transparency regarding the operation of the direct offer list.
52. The Claimant maintains that there is a lack of clarity and transparency as to how any discretion on the part of the Defendant operates or how “enhanced priority” decisions are made. Certainly, no further explanation is provided within the housing allocations scheme itself of how direct offers will be made. And even in the Direct Offers Procedure, no further explanation is given for when enhanced priority might be given to a case. The Claimant further argues that this lack of clarity is borne out by the data obtained from her Freedom of Information requests. She notes that the Defendant did not make any direct offer in the period of 30 December 2023 to 30 December 2024 by reference to date order and that, between 30 December 2024 and 28 August 2025, 7 of 9 direct offers of 4-bed properties were made to people with 0 years waiting but “enhanced priority”.
53. Despite repeated and lengthy communication with the Defendant, the Claimant further states that no evidence has been produced that there were indeed 11 households with a greater level of need than the Claimant between January 2025 and July 2025 on the basis of 4-bed need, or 6 such households on the basis of a 5-bed need. Indeed, the Claimant points to the fact that no evidence at all has been exhibited to Mr Bellot’s witness statements. And, as I have noted above, I did not generally find Mr Bellot’s evidence to be illuminative of the issues before me.
54. In particular, the Claimant points to there being no explanation of when a “relevant senior officer may make a decision to enhance the priority for a direct offer” or by what criteria such a decision would be made. Indeed, the Claimant maintains that she has still not been told if she has been given “enhanced priority”.
55. In *R (Limbu) v Secretary of State for the Home Department* [2008] EWHC 2261 (Admin), at paragraph 65, Blake J stated as follows: “transparency, clarity and the avoidance of results that are contrary to common sense or are arbitrary are aspects of the principle of legality to be applied by the courts in judicial review.” The Claimant argues that, in a context of urgent housing need and limited public resources, the Defendant’s lack of transparency and clarity in how the direct offer list works is plainly unlawful.
56. The Defendant points out that a lack of detail in an allocations policy is not in and of itself unlawful. As a general proposition, it is not necessary for an authority to do more than explain what criteria apply and indicate that they will allocate in accordance with those criteria: *R (Lynch) v Lambeth LBC* [2006] EWHC 2737 (Admin); [2007] HLR 14. In that case how points were awarded was a matter of judgment by officers; it was not necessary further to define the scheme as such a wide range of medical or welfare circumstances might have to be considered
57. The Defendant further relies on the case of *R (Babakandi) v Westminster CC* [2011] EWHC 1756 (Admin); [2011] ACD 99, in which Nichol J accepted that the ad hoc promotion of a number of overcrowded households to the highest band following a mid-year assessment by Westminster (to address an imbalance and ensure they met targets) made an allocations scheme less

transparent, but did not render it unlawful. The point was reinforced by Sullivan LJ in the Court of Appeal in refusing permission, when he observed:

“The mere proposition that [an allocations policy] might be more transparent is not sufficient to establish unlawfulness. To a degree there is bound to be a trade off between simplicity and the complexity inherent in any scheme that tries to monitor and adjust to ensure that particular targets are being met.”

58. The Defendant argues that the use of direct offers by the Defendant in this case is comparable to the operation of the allocations scheme in *Babakandi*. Although uncertainty is endemic in relation to allocations (in particular in relation to the number and type of properties becoming vacant), insofar as they are able, the Defendant has defined in some detail the circumstances in which direct offers might be used, as in clause 3.2 of the housing allocations scheme. Moreover, that clause explains at (j) that “All direct offers of accommodation will be authorised by the Group Services Manager for Homelessness and Housing Options following detailed reports received and produced by the Housing Choice Team Leader”. They argue that the nature and purpose of the power to make direct offers is so as to provide the Defendant with a means of addressing imbalance and unfairness, as in *Babakandi*. The mere fact that an aspect of an allocations policy might be set out with greater clarity and/or detail, even where that would be both of assistance and preferable, does not render the policy unlawful: *R (Willott) v Eastbourne BC* [2024] EWHC 113 (Admin); [2024] HLR 26, at paragraph 127.
59. The Defendant further argues that section 166A(9) of the Act makes provision for the supply of certain information on request from an applicant, but that duty is limited to “general” information. Moreover, an applicant is not entitled to be able to predict when and if he would actually be accorded accommodation, because such question is beset by uncertainty: *Babakandi*. The Defendant states that they have, at all material times, complied with s166A(9) and their policy in terms of the provision of information. The allocations policy makes provision for information about bids at clause 2.4.2, in clause 3.13 relating to the Annual Lettings Plan and clause 7.9 as regards feedback on let properties. Further, the Defendant has responded to the Claimant’s requests and applications for information (save for those which were deemed unreasonable).
60. In this case, the Housing Allocations Scheme makes it clear that, while the majority of applicants will be housed through CBL, the Defendant may make direct offers in certain circumstances, namely to those who have been assessed and who are in urgent need. The categories of such applicants are set out. It is right to say that the scheme does not state that priority for a direct offer will be set based on the date a household has been agreed for a direct offer, as that appears only in the internal procedure. However, it is not surprising that there

exists a more detailed internal operating procedure, as this is intended not for public consumption, but as a guide to the relevant officers of the Defendant.

61. That internal procedure also makes it clear that there is no specific time frame for an offer to take place. Information has indeed been disclosed by the Defendant to demonstrate that there are those on the direct offers list who have been on the list for far longer than the Claimant. Consequently, the procedure states that, depending on the urgency of the case, the relevant senior officer may make a decision to enhance the priority for a direct offer.
62. It is right to state that no criteria have been provided for when such a decision might be taken. No details have been provided of how many such decisions have been taken or on what grounds. Indeed, the Claimant states that she does not know if such a decision has been taken in her case.
63. I note that transparency, clarity and the avoidance of results that are contrary to common sense or are arbitrary are all aspects of the principle of legality. The Defendant has not provided the criteria applied to decisions of “enhanced priority” or indeed indicated whether there are any such criteria, beyond the urgency of the case. It is clearly right that, in this case, it would have been desirable if the Claimant had been informed of such matters or at least told that there were no criteria. However, as in *Babakandi*, the fact that a policy might be more transparent is not sufficient to establish unlawfulness. As in the case of *Willott*, the mere fact that an aspect of an allocations policy might be set out with greater clarity and/or detail, even where that would be both of assistance and preferable, does not render the policy unlawful.
64. In all the circumstances, while I can understand the Claimant’s wish for more detailed information about how the Defendant’s scheme will be operated, I do not consider that the failure to provide such information renders the scheme unlawful. Inevitably, there will be many factors relevant to the difficult decisions that the Defendant has to make in relation to the allocation of a limited housing stock to a large number of applicants. It is clear that the Defendant needs to retain discretion as to their decisions. In all the circumstances, this ground fails.

Ground 3

65. The issue here is whether the Defendant has breached the Public Sector Equality Duty (“PSED”) in relation to the direct offer waiting list. As part of that duty, by section 149, specified public authorities must have due regard to the need to eliminate discrimination against persons with certain protected characteristics.

66. Public bodies are required to “focus very sharply” on: the nature and extent of the applicant’s protected characteristic; the likely effects of the characteristic; the applicant’s particular needs; and the extent to which it could be said that these inform the statutory test in question (see *Lomax v Gosport BC* [2018] EWCA Civ 1846 and *Haque v Hackney London Borough Council* [2017] EWCA Civ 4).
67. As the Defendant notes, the PSED is not concerned with the lawfulness or adequacy of an adopted solution, but only with the lawfulness of the decision-making process: *R (Carmichael and Rourke) v Secretary of State for Work and Pensions* [2016] UKSC 58, at paragraph 67.
68. The concept of due regard requires the court to ensure that there has been a proper and conscientious focus on the statutory criteria but, if there has been such, the court cannot interfere with the decision simply because it would have given greater weight to the equality implications of the decision than did the decision maker: see *R (Hurley & Moore) v Secretary of State for Business, Innovation and Skills* [2012] EWHC 201 (Admin) (Divisional Court) at paragraph 78.
69. In this case, the Claimant has argued that disabled persons are disadvantaged by the direct offer process and points to the data which shows longer waiting times for those with disabilities. That is based upon the data provided by the Defendant in this case. The Defendant has argued that the data is open to being skewed by anomalies, particularly as not all disabled households will have the same requirements. However, one of the difficulties with this point is the relatively limited amount of data retained by the Defendant.
70. The Claimant relies on *R (DXK) v Secretary of State for the Home Department (Rev1)* [2024] EWHC 579 (Admin), in which the High Court found that a failure to conduct statistical data monitoring relating to the provision of accommodation to asylum seekers amounted to a breach of the public sector equality duty. It was said that an authority cannot have due regard to the duty without taking steps to gather relevant information, such as the quality of accommodation or the waiting time for adequate accommodation.
71. I do not consider the facts of *DXK* to be precisely analogous to the present case. That case concerned a failure by the Secretary of State to collect statistical data on the provision of accommodation to pregnant and new mother asylum-seekers where independent contractors had been engaged to secure accommodation. Without that data, it was not possible to monitor and have due regard to the need to advance equality of opportunity between pregnant and new mother asylum-seekers (and their infants), who shared the protected characteristics of pregnancy and maternity and age, and persons who did not share those characteristics.

72. *DXK* has been considered by the Court of Appeal in *R (RR) v Enfield LBC* [2025] EWCA Civ 1390. In *RR*, the Court of Appeal, in reversing the decision below, confirmed that there is no free-standing obligation to collect and monitor data in order to comply with the PSED. It stated at paragraph 75:

“In the present case, the respondent was exercising a function when it adopted its housing allocation scheme. It carried out an equality impact assessment prior to adopting its allocation scheme. There is no suggestion that the allocation scheme is unlawful or that the respondent failed to have due regard to the relevant equality considerations when adopting that scheme.”

Further, at paragraph 83,

“In the present case, the review decision was correct in its application of the respondent’s housing allocation scheme. As the decision-maker noted, the respondent was required to allocate housing in accordance with that scheme. Any alleged failure to monitor and obtain statistics would not affect the decision on the review. At most, it might have been relevant, dependent on the circumstances, to a future review of the housing allocation scheme. In those circumstances, if there had been any breach of duty, the Judge would have been entitled to refuse a remedy in relation to the decision under challenge.”

73. In this case, the Defendant did conduct an equality impact assessment in March 2013, prior to adopting the Housing Allocations Scheme. Although the Claimant observes that this assessment was in relation to the scheme as a whole, rather than the operation of the direct offers list only, the scheme as a whole includes the direct offers process. Further, it is clear that the Defendant monitors the scheme as a whole annually. Direct offers are monitored monthly and a comparison is drawn with CBL allocations. Indeed, the Defendant’s responses to various information requests demonstrate that data has been collected on the direct offer process, including on those with protected characteristics. I am satisfied that the Defendant has been paying due regard to the PSED.

74. While the Claimant is right to observe that her household has been disadvantaged by the way in which the direct offers procedure has been operated by the Defendant, there is insufficient material to support a contention that this is because disabled households more generally are disadvantaged or that it results from a failure by the Defendant to observe the PSED. The disadvantage alleged is also based upon a single data point.

75. In all of the circumstances, I am not satisfied that the Claimant has demonstrated a failure on the Defendant’s part to discharge the PSED. This ground fails.

Conclusion

76. In the circumstances, I have not gone on to consider the points made by the Defendant as to the appropriateness of relief in this case, in the event that I found one of the grounds made out.
77. The claim for judicial review is dismissed.