

R (Hughes) v Kirklees Council [2026] EWCA Civ 308

Court of Appeal confirms lawfulness of decision to sell care homes

Peter Oldham KC and Jack Anderson, instructed by Robert Glassford and Sam Burgess of Ward Hadaway LLP, acted for Kirklees Council in this challenge to the Council's decision to sell two adult care homes to a private provider.

The background was that the Council sought buyers for two adult dementia care homes which it was running in-house. There were a number of reports to Cabinet starting in March 2024 concerning the sale process, which involved consultation and identification of a buyer on quality and price criteria. A report to Cabinet in February 2025 recommended selling the homes to the buyer, and Cabinet agreed. That decision was challenged in judicial review proceedings by the family of one of the residents. The claimant alleged amongst other matters that (1) the officer report to members in February 2025 had unreasonably used figures from 2023/24 for the likely cost of external provision, whereas costs had risen since then, and so the savings to be made by selling had been overstated; (2) the Council should have undertaken further consideration of whether cost savings could be made while retaining the homes in-house; (3) there had been a failure to consult adequately; and (4) a failure to comply with the public sector equality duty.

There was a “rolled up” trial of the claim, and in December 2025 the trial judge gave judgment dismissing the claim. He found that the use of the figures from March 2024 was unreasonable, but that even if up to date figures had been used in February 2025, the revenue savings would still have been about a £500,000 a year, and that it was highly likely that the error made no difference. The judge accordingly dismissed the claim under s 31(3C) of the Senior Courts Act 1981 which obliges the Court to refuse permission to apply for judicial review in such circumstances.

The claimant appealed to the Court of Appeal on the basis that the judge was wrong to find that s 31(3C) applied, and that grounds 1 and 2 above should have been upheld. The Council argued, by a respondent's notice, that the judge was wrong to find that the Council's use of figures from 2023/24 was unreasonable in the first place.

In a [judgment](#) in March 2026, the Court of Appeal agreed with the Council's respondent's notice point. It said that an officer's report could not be criticised unless it was “significantly misleading”, referring to a line of authority – largely planning cases – summarised in [Mansell v Tonbridge & Malling BC \[2017\] EWCA Civ 1314](#). The Court said that the February 2025 report was not misleading. The proposed sale had been subject to a series of reports from early 2024 using the same figures, so that members would have been aware throughout that the figures had not been updated, and the

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report in February 2025 did not suggest that they had been. In any event, the costs savings were so significant even on updated figures that use of the earlier costs figures was not particularly material. The Court of Appeal therefore did not need to consider the s 31(3C) point, and dismissed other aspects of the appeal.