

DETERMINATION BY THE SECRETARY OF STATE UNDER SECTION 32(3) OF THE NATIONAL ASSISTANCE ACT 1948 OF THE ORDINARY RESIDENCE OF MR X (OR 7 2013)

1. I am asked by CouncilA and CouncilB to make a determination under section 32(3) of the National Assistance Act 1948 (“the 1948 Act”) of the ordinary residence of Mr X.

2. The two local authorities (CouncilA) and (CouncilB) are seeking determination of Mr X’s ordinary residence from 1 April 2011 to date.

The background to the case

3. The following information has been ascertained from the joint statement of facts prepared by the two authorities involved in the dispute, the two sets of legal submissions prepared by each of the two authorities and the copy documents supplied.

4. X was born on x date 1961.

5. On 9 February 2010 X sustained an anoxic brain injury secondary to an overdose of prescribed medication. At the time he was living with his wife in TownB, which is in CouncilB’s area.

6. As a consequence of this injury he was admitted to the Intensive Care Unit at HospitalC within the area of CouncilC. There is no dispute that he was ordinarily resident in CouncilB's area immediately before this admission.

7. In March 2010 X was transferred to HospitalD within the area of CouncilD for physical and cognitive rehabilitation.

8. In May 2010 he was transferred to CentreE, managed by TrustE at the HospitalE. His accommodation and care there was funded by the NHS.

9. CouncilA states that an assessment for Continuing Healthcare (CHC) was carried out on 16 September 2010, the health members of the Multi-disciplinary Team considered that he did not meet the criteria for CHC but the CouncilB member disagreed. A copy of this assessment has not been provided with the papers.

10. On 29 September 2010 it was noted that X and his wife had by then agreed to separate (they have since divorced) and that he had decided to move to the CouncilA area in order to be nearer to his family.

11. CouncilA states that one of its employees, EmployeeA, was told by Care Manager of CouncilB that following an assessment of X's needs in October 2010 the authority had concluded his needs met 'health criteria for ongoing rehabilitation'. CouncilB denies that such a conversation took place. No

further evidence is provided of the conversation nor of any assessment having taken place in October 2010.

12. On 28 October 2010 it was noted that the sale of X's and his wife's property in TownB was due to go through on 1 November 2010 and that he was still at HospitalE.

13. On 22 December 2010 X moved into supported living accommodation in TownA, CouncilA, managed by TrustE Community Services and funded by the NHS. No paperwork emanating from this move has been provided by either local authority. He chose to move there so he would be closer to his family following separation from his wife. His residence there is by licence. He continued to live there as at 19 October 2012 when the request for this determination was submitted.

14. According to a letter of 17 January 2011 from Localities Team Manager of the NHS Funded Care Team for CouncilB PCT, an assessment of X's health needs was carried out on 9 November 2010 by the Care Co-ordinator, and the Care Manager. The Localities Team Manager states that X's needs did not match the criteria for Continuing Care, but that NHS CouncilB would fund his placement for up to 12 weeks as from 23 December 2010.

15. CouncilA states that there was a further assessment for CHC on 15 February 2011 when all members of the Multi-disciplinary Team agreed that X did not meet the criteria, whereupon, by letter dated 1 March 2011, a team

manager in the Primary Care Trust's Funded Care Team asked CouncilA to take over funding on 1 April 2011. Neither a copy of this assessment nor the letter of 1 March have been provided with the papers.

16. On 1 April 2011 CouncilA began funding the placement with the unsigned funding acceptance form stating:

'Total cost of the placement £1930.67 per week. Accommodation charges are £102.61 of which £75.71 per week is met by housing benefit. The shortfall of £26.90 and the meals and utilities costs of £60.26 would be expected to be met by X through his personal income. CouncilA are responsible to [sic] the Support Service Charge of £1767.80. Should the service user fail to meet their financial responsibilities, CouncilA will be held responsible for the full fees.'

17. CouncilA accepts responsibility for funding X on these terms on an interim basis.

18. Both local authorities agree that X has the mental capacity to decide where to live.

The relevant law

19. I have considered the joint statement of facts, the additional documentation, the legal (and further legal) submissions provided by CouncilB

and CouncilA, previous decision OR 12 2011, the provisions of Part 3 of the National Assistance Act 1948 (“the 1948 Act”), section 2 of the Chronically Sick and Disabled Persons Act 1970, the guidance on ordinary residence issued by the Department (“the Guidance”), The NHS Continuing Healthcare (Responsibilities) Directions 2009, The Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, Local Authority Circular (93) 10 and the cases of *Shah v London Borough of Barnet* (1983) 1 All ER 226 (“Shah”), *R (Greenwich) v Secretary of State and Bexley* [2006] EWHC 2576 (“Greenwich”), *R (Westminster CC) v NASS* [2002] UKHL 38 (“Westminster and NASS”), *R (SL) v Westminster CC* [2013] UKSC 27 (“SL and Westminster”) and *R v London Borough of Redbridge ex parte East Sussex County Council* (1992) Times, 31 December (“Redbridge”).

20. Section 21 of the 1948 Act empowers local authorities to make arrangements for providing residential accommodation for persons aged 18 or over who by reason of age, illness or disability or any other circumstances are in need of care and attention which is not otherwise available to them. Section 24(1) provides that the local authority empowered to provide residential accommodation under Part 3 is, subject to further provisions of that Part, the authority in whose area the person is ordinarily resident. The Secretary of State’s Directions under section 21 provide that the local authority is under a duty to make arrangements under that section “in relation to persons who are ordinarily resident in their area and other persons who are in urgent need thereof”.

21. Under section 24(5) of the 1948 Act, a person who is provided with residential accommodation under the Act is deemed to continue to be ordinarily resident in the area in which he was residing immediately before the residential accommodation was provided.

22. Prior to 19 April 2010, (i.e. at the time when X was in HospitalD section 24(6) of the 1948 Act read as follows: 'For the purposes of the provision of residential accommodation under this Part of this Act, a patient in a hospital vested in the Secretary of State, a Primary Care Trust or an NHS trust shall be deemed to be ordinarily resident in the area, if any, in which he was ordinarily resident immediately before he was admitted as a patient to the hospital, whether or not he in fact continues to be ordinarily resident in that area.'

23. On 19 April 2010, by virtue of the coming into force of s148(1) of Health and Social Care Act 2008 on that date, section 24(6) became 'For the purposes of the provision of residential accommodation under this Part, a patient ("P") for whom NHS accommodation is provided shall be deemed to be ordinarily resident in the area, if any, in which P was resident before the NHS accommodation was provided for P, whether or not P in fact continues to be ordinarily resident in that area.' By the same enactment, on the same date, a section 6A came into force stating; 'In subsection (6) "NHS accommodation" means—

(a) accommodation (at a hospital or elsewhere) provided under the National Health Service Act 2006 or the National Health Service (Wales) Act 2006...'

24. By virtue of section 26 of the 1948 Act, local authorities can, instead of providing accommodation themselves, make arrangements for the provision of the accommodation with a voluntary organisation or with any other person who is not a local authority. Certain restrictions on those arrangements are included in section 26. First, subsection (1A) requires that where arrangements under section 26 are made for the provision of accommodation together with nursing or personal care, the accommodation must be provided in a registered care home (this subsection being amended as such on 1 October 2010 and is set out in the following paragraph). Second, subsections (2) and (3A) state that arrangements under that section must provide for the making by the local authority to the other party to the arrangements of payments in respect of the accommodation provided at such rates as may be determined by or under the arrangements and that the local authority shall either recover from the person accommodated or shall agree with the person and the establishment that the person accommodated will make payments direct to the establishment with the local authority paying the balance (and covering any unpaid fees).

25. Section 26(1A) states:

‘Arrangements must not be made by virtue of this section for the provision of accommodation together with nursing or personal care for persons such as are mentioned in section 3(2) of the Care Standards Act 2000 (care homes) unless—

- (a) the accommodation is to be provided, under the arrangements, in a care home (within the meaning of that Act) which is managed by the organisation or person in question; and
- (b) that organisation or [person—
 - (i) in the case of a home in England, is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of a regulated activity (within the meaning of that Part) carried on in the home,]’

26. Section 26(3A) states:

‘Where accommodation in any premises is provided for any person under arrangements made by virtue of this section and the local authority, the person concerned and the voluntary organisation or other person managing the premises (in this subsection referred to as “the provider”) agree that this subsection shall apply—(a) so long as the person concerned makes the payments for which he is liable under paragraph (b) below, he shall not be liable to make any refund under subsection (3) above and the local authority shall not be liable to make any payment under subsection (2) above in respect of the accommodation provided for him;

(b) the person concerned shall be liable to pay to the provider such sums as he would otherwise (under subsection (3) above) be liable to pay by way of refund to the local authority; and

(c) the local authority shall be liable to pay to the provider the difference between the sums paid by virtue of paragraph (b) above and the payments which, but for paragraph (a) above, the authority would be liable to pay under subsection (2) above.]’

27. Section 29(1) empowers Local Authorities to provide welfare services and is the power under which domiciliary social care services are normally provided.

28. Ordinary Residence is not defined in the legislation but developing case law in this area has done so and is referred to within the application of the law below.

The Parties' submissions

CouncilB's submissions

CouncilB submit as follows in paragraphs 29 and 30:

29. Following the Westminster and NASS case, X needed care and attention which could be provided in his own home, or in a home provided by a local authority under the housing legislation and is not entitled therefore to accommodation under section 21(1)(a). X is in a similar situation to that of Mr X in OR 12 2011 in that he resides under a licence at a supported living placement run by TrustE and so should be similarly adjudicated to be receiving domiciliary social care services, here under section 29(1), rather than accommodation under Part 3. He was funded at TrustE by the NHS but this was not CHC rather it was a twelve week package of funding to enable

him to relocate to CouncilA. He was assessed as no longer qualifying for CHC funding of accommodation and care.

30. On 29 September 2010, X made the decision to move to CouncilA to be near his family. The sale of his former marital home on 1 November 2010 rendered him homeless, without a place of ordinary residence and with severed ties with CouncilB. Paragraph 44 of the Guidance states; ‘ ..if a person clearly and intentionally left their previous residence and moved to stay elsewhere on a temporary basis during which time their circumstances change, a local authority may conclude the person to be of no settled residence.’ At the point of moving to CouncilA on 22 December 2010, X acquired OR in CouncilA. He receives housing benefit and is responsible for his own accommodation costs and CouncilA are the responsible authority in terms of the support service charge element of his placement.

CouncilA’s submissions

CouncilA submit as follows in paragraphs 31-33:

31.The Westminster and NASS case does not mean that a local authority cannot, under section 21, provide ordinary accommodation in order for the care and attention needed to be reasonably efficacious. The words ‘reasonably efficacious’ are taken from the Court of Appeal hearing of the SL and Westminster case. The Court of Appeal decision was overturned by the

Supreme Court on 9 May 2013. The Supreme Court decision is dealt with below.

32. The accommodation provided at TrustE falls under section 26(1) because CouncilA is responsible for X's full fees including his accommodation costs because if he does not pay them, they have to. CouncilA have therefore put into effect the type of agreement referred to in section 26(3A) and so this amounts to arrangements under section 26 (1)(b).

33. At HospitalE X was in a hospital for the purposes of 24(6A)(a). Subsequently, when he moved to TrustE in December 2010, he was provided with accommodation paid for by the NHS and considered NHS accommodation under the NHS Act 2006 which after 19 April 2010 included non-hospital accommodation. An assessment for CHC was carried out on 16 September 2010 during which the CouncilB representative believed X met the criteria for CHC. This accommodation continued to be provided under the NHS until 1 April 2011 when the PCT asked CouncilA to take over funding which they did under section 21 with arrangements under section 26(1).

Application of the law

34. There is no doubt that X was ordinarily resident in CouncilB immediately prior to sustaining his injury and being admitted to HospitalC.

35. If it is shown that the accommodation is being provided under part 3 of the 1948 Act and the accommodation from HospitalC to the current day falls under the deeming provisions within section 24(6) and subsequently section 24(5), X will be deemed to retain his ordinary residence in CouncilB to the present day (assuming he remains in the accommodation under the same terms as those of 1 April 2011 which seems to be the case on the papers).

Part 3 accommodation – section 26

36. The accommodation has been arranged by CouncilA who state that these arrangements were made under Part 3 of the 1948 Act. The requirements for arrangements of accommodation to be classed as being made under Part 3 include two from Section 26 of the 1948 Act that are of particular relevance to X's situation:

- 1) Subsections (2) and (3A) state that arrangements under that section must provide for the making by the local authority to the other party to the arrangements of payments in respect of the accommodation provided at such rates as may be determined by or under the arrangements and that the local authority shall either recover from the person accommodated or shall agree with the person and the establishment that the person accommodated will make payments direct to the establishment with the local authority paying the balance (and covering any unpaid fees¹).

¹ s26(3A)(c) of the 1948 Act

CouncilA is liable for the Support Service Charge and X is responsible for his other costs including accommodation. However, crucially, according to the funding arrangements, should X fail to meet his financial responsibilities, CouncilA will be held responsible for the full fees. This would appear to meet the requirements within s26(3A).

- 2) Subsection (1A) provides that if arrangements under this section are being made for the provision of accommodation together with nursing or personal care, they must not be made unless the accommodation is provided in a care home, as defined in the Care Standards Act 2000, managed by an organisation or person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008.

37. Dealing first with whether the accommodation was being provided with personal care, personal care is defined in regulation 2 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010² as:

- a) physical assistance given to a person in connection with-
 - i. eating or drinking,
 - ii. toileting,
 - iii. washing or bathing,
 - iv. dressing,
 - v. oral care, or
 - vi. the care of skin, hair and nails; or

² SI No 781

- b) the prompting, together with supervision, of a person, in relation to the performance of any of the activities listed in paragraph a), where that person is unable to make a decision for themselves in relation to performing such an activity without such prompting and supervision.

38. Pages 7-8 of the HospitalE Rehabilitation report from September 2010 reveal that X would require support during washing tasks especially when he moves to a new placement due to disorientation issues and that this would be needed for approximately 4-6 months after moving to a new placement. His long term goals include to shower and complete grooming tasks independently and to make breakfast and snack meal with support from staff. Even when he achieves the latter goal it would be with support from staff.

39. Following further clarification sought from the Local Authorities on 3 April 2013, CouncilA provided a social work assessment carried out by EmployeeA of that council between 3 May 2011 and 18 May 2011 which states:

On page 4:

- 'In view of his visual impairment and associated difficulties Mr X needs the assistance of one person when he is outdoors to assist him to mobilise safely.'

On page 8:

- 'He says that he regularly feels unsafe when he mobilises and feels like he is going to fall. He requires supervision especially in unfamiliar surroundings and outdoors until his confidence improves.'

On page 9:

- Mr X needs assistance and supervision from one member of staff with his personal care needs to reduce the risk of falls and ensure his safety. He needs assistance to turn the shower on, set the temperature and get in and out of the shower safely. A fold down shower seat is in situ. He says that once he is in the shower he is able to wash himself but needs assistance to wash his hair. Set up is vital in order for Mr X to be as independent with personal care tasks as possible. For example, he needs items to be placed in the right order for him to use them without assistance and Mr X says he needs assistance from staff to pass him items such as a flannel and towel etc. Mr X needs some assistance to dry himself.'

- 'He needs assistance to put toothpaste on his toothbrush and to use a shaver

Etc'

- 'Mr X says he sometimes needs guidance with trousers due to confusion about where his legs need to go.'

- 'Before he goes to bed, Mr X says that he is mostly independent with basic washing and dressing tasks if items such as clothing are organised for him or placed in familiar places. He needs some assistance to apply cream to his body.'

On page 13:

- He says that he is able to open drinks cans independently and obtain crisps, biscuits or fruit. However, he requires full assistance with meal and drink preparation.

- 'Mr X also says he has poor grip and needs guidance to hold cutlery correctly. Mr X says that he is not able to use a knife and fork to cut up his food. He is able to feed himself but requires food to be chopped into bite size pieces on his behalf.'

On page 17:

- There would be a risk of falls/injury and a risk to Mr X's safety and confidence if he is not accompanied when he goes outdoors or supervised when mobilising/transferring outdoors. Risk is currently low in view of current support services.

- Mr X has a history of depression and attempted suicide. There would be a risk of social isolation and risk to his emotional wellbeing without intervention to support his social and leisure needs. Support is needed to maintain Mr X's wellbeing and prevent further emotional crisis. Risk is currently low in view of current support services.

-There would be a risk to Mr X's personal hygiene needs if he did not receive assistance/supervision with his personal care needs. There would also be a risk of falls in relation to transferring in and out of the

bathing facility and dressing tasks without support. Risk is currently low in view of current support services.

- There would be a risk to Mr X's nutritional intake without regular support and assistance with meal and drink preparation. Risk is currently low in view of current support services.

- Mr X needs assistance with most activities of daily living in order to promote his safety and wellbeing.

40. The same social worker confirmed by email of 13 May 2013 that 'It is very likely that Mr X's needs identified in May 2011 assessment will reflect needs in April 2011.'

41. It is clear that X still required personal care and that such care was being provided along with the accommodation.

42. As such, it is a requirement under section 26(1A) that the accommodation was provided in a care home, as defined in the Care Standards Act 2000, managed by an organisation or person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008.

43. TrustE and the Disabilities Trust are registered with the CQC but according to the CQC website were not, as of 17 January 2013, and have

previously not been, so registered for any activity at AccomodationA01 in CouncilA.

44. In February 2013, the following clarification was sought from CouncilA and CouncilB:

'It appears that the accommodation in TownA, CouncilA, provided to Mr X by TrustE is not registered with the CQC. Do the Local Authorities have any comments on whether it is/was registered with the CQC and, if so, for which periods of time?'

CouncilB responded: 'I would not expect a supported tenancy to be registered with CQC but as a provider of domiciliary care they should be.'

CouncilA responded: 'CouncilA does not know whether AccomodationA01. Enquiries have been made with TrustE and a response is awaited, however no reply has been received before the 20 February 2013 deadline for responding to these additional questions.'

45. No further information has been received from CouncilA to suggest that TrustE or the Disabilities Trust have been registered for any activity at AccomodationA01 in CouncilA.

46. As such, arrangements cannot be made under s26 of the 1948 Act with TrustE for accommodation at AccomodationA01 and so this accommodation being provided by CouncilA cannot be classed as Part 3 accommodation. Instead, it would appear on the papers that CouncilA are providing services to X under section 29(1) of the 1948 Act which empowers local authorities to provide welfare services and is the power under which domiciliary social care services are normally provided. CouncilA began providing such services on 1 April 2011. It is worth noting that CouncilA does state in its letter of 9 December 2011 that as of 1 April 2011 he required non-residential social care services under section 29 of the 1948 Act.

Part 3 accommodation – section 21

47. However, as paragraph 90 of the Guidance sets out, the Greenwich case established that if arrangements should have been made under section 21 of the 1948 Act but were not, the deeming provision in section 24(5) could still apply.

48. Turning then to the question of whether arrangements to provide accommodation under section 21 of the 1948 Act should have been made, CouncilB contends that the provisions of s21(1)(a), 'residential accommodation for persons who by reason of illness, disability or any other circumstances are in need of care and attention which is not otherwise available to them', do not apply to X's circumstances since 1 April 2011.

49. Care and attention is defined by Baroness Hale in *R (M) v Slough BC*³ at paragraph 33; ‘...the natural and ordinary meaning of the words ‘care and attention’ in this context is ‘looking after’. Looking after means doing something for the person being cared for which he cannot or should not be expected to do for himself: it might be household tasks which an old person can no longer perform or can only perform with great difficulty; it might be protection from risks which a mentally disabled person cannot perceive; it might be personal care, such as feeding, washing or toileting. This is not an exhaustive list.’

50. In the further information requested of the Local Authorities in February 2013, CouncilA state; ‘A CouncilA social worker has spoken with a member of staff at the accommodation who understands that when Mr X first arrived there he needed a male member of staff to guide him into the shower and to wash his hair. Also, on odd occasions he is helped to remove his socks, which is undressing rather than ‘dressing’. Otherwise he has not needed and does not currently need any physical assistance in connection with the activities listed under ‘personal care (a)’ in regulation 2 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 (see above). Even if, for the purposes of ‘personal care (b)’ he needs prompting or supervision in relation to these activities he does not need this because he is unable to make a decision for himself in relation to them without this but because he is blind.’

³ [2008] UKHL 52, (2008) 11 CCLR 733

51. However, the social work assessment carried out by CouncilA in May 2011, discussed above, clearly shows that X did require care and attention from 1 April 2011 onwards.

52. The next question for the criteria in section 21(1) to be met is, was the care attention not otherwise available to him than through the provision of residential accommodation?

53. CouncilB puts forward Lord Hoffman's judgement in the Westminster and NASS case, specifically that the effect of section 21(1)(a) is that normally a person needing care and attention which could be provided in his own home, or in a home provided by a local authority under the housing legislation, is not entitled to accommodation under this provision.

54. CouncilA puts forward the SL and Westminster case which, as mentioned above, has recently received judgement by the Supreme Court. Lord Carnwath held:

At 44 – 'What is involved in providing "care and attention" must take some colour from its association with the duty to provide residential accommodation.'

At 45 – '...was it "available otherwise than by the provision of accommodation under section 21"? Although it is unnecessary for us to decide the point, or to consider the arguments in detail, it seems to me

that the simple answer must be yes, as the judge held. The services provided by the council were in no sense accommodation-related. They were entirely independent of his actual accommodation, however provided, or his need for it. They could have been provided in the same place and in the same way, whether or not he had accommodation of any particular type, or at all.'

55. X had a variety of needs and was provided with a wealth of support but did this require residential accommodation or was such support available through non-residential community care? The power to provide the latter is set out in section 29(1) of the 1948 Act which states: 'A local authority may.... make arrangements for promoting the welfare of persons to whom this section applies' which includes those with a disability such as that which AB has.

56. As paragraph 17 of the Guidance explains, more detail on some of the services which may be provided under section 29 is set out in section 2 of the Chronically Sick and Disabled Persons Act 1970. These include at paragraph (1)(a), 'the provision of practical assistance for that person in his home;'

57. Appendix 2 of Local Authority Circular (93) 10 contains the Secretary of State's approvals and directions under section 29(1) of the 1948 Act which include:

At 2.(1) Directing local authorities to make arrangements to, amongst other purposes: '(a) ...provide a social work service and such advice and support as may be needed for people in their own homes or elsewhere;

(b) ...provide, whether at centres or elsewhere, facilities for social rehabilitation and adjustment to disability including assistance in overcoming limitations of mobility or communication;'

At 2.(3) Approving the making by local authorities of arrangements to, amongst other purposes:

(c)...assist a person in finding accommodation which will enable him to take advantage of any arrangements made under section 29(1) of the Act;

The care and attention that X required, as detailed above and taken from the aforementioned assessment of him from May 2011, could have been provided through:

- Practical assistance to him in his home;
- Social work service and support in his home;
- Assistance in overcoming limitations of mobility in the home; and
- CouncilA assisting him to find accommodation so that he could take advantage of some of these arrangements.

58. The ability to support X in such a way was certainly possible given he did not require any assistance at night: in the social work assessment of X from November 2011, page 11 reports that X says he 'has no overnight needs and from approximately 10pm until 8am the next day he does not need assistance. Since his admission to TrustE in CouncilA, X says that he has needed assistance from staff during the night on one occasion when he was unwell.'

59. X not requiring any assistance from 10pm until 8am supports the conclusion that he could be supported in his own home under section 29 of the 1948 Act. As such, CouncilA did not, and did not need to, provide X with residential accommodation under section 21(1) of the 1948 Act.

Ordinary residence otherwise

60. As the accommodation is not provided under Part 3, the deeming provisions under section 24(5) and (6) cannot apply in determining where X's ordinary residence is and so the time at which he moved to the CouncilA area becomes significant, bearing in mind the case of Shah. Lord Scarman stated; 'unless ... it can be shown that the statutory framework or the legal context in which the words are used requires a different meaning I unhesitatingly subscribe to the view that "ordinarily resident" refers to a man's abode in a particular place or country which he has adopted voluntarily and for settled purposes as part of the regular order of his life for the time being, whether of short or long duration.'

61. X stated around the end of September 2010 his wish to live in CouncilA's area to be close to his family. He moved there on 22 December 2010 following his earlier separation from his wife and having sold his former marital home less than two months before. This move was for settled purposes; indeed he continued to live there as at 19 October 2012 when the request for this determination was submitted. On the facts, applying the case of Shah, X acquired ordinary residence in CouncilA's area by 1 April 2011 be

it that he had voluntarily adopted an abode in CouncilA for settled purposes as part of the regular order of his life.

62. I therefore determine that X has been ordinarily resident in the area of CouncilA in the time period during which ordinary residence is disputed by the two local authorities i.e. from 1 April 2011 and, from the information in the papers, appears to remain so to the present day.

Signed:

Date: