



Association of **Lawyers for Children**  
Promoting justice for children and young people

# SCHEDULE OF CASES

## DAMAGES IN HRA CLAIMS INVOLVING CHILDREN WITHIN CARE PROCEEDINGS

### ***Important points to note:***

1. This document has been created by the Association of Lawyers for Children (ALC). It remains the property of the ALC.
2. The ALC will be responsible for maintaining the document and updating it from time to time.
3. The ALC invites practitioners to download, print, circulate and use the document but it should not be amended or changed without prior written permission of the ALC.
4. The document does not purport to be a comprehensive schedule of cases and should not be relied on in that way. The ALC hopes that the document serves as helpful schedule and the ALC will continue to update it as and when cases for inclusion are referred to the ALC, however the ALC cannot itself regularly check that the schedule consists of every relevant case.
5. Practitioners are invited to contribute cases, whether reported or otherwise (including settlements reached outside of proceedings), to the schedule. To refer a case for inclusion, please provide the information that the headings of the table require to: [admin@alc.org.uk](mailto:admin@alc.org.uk).
6. For cases which already feature in the schedule, if a practitioner recognises the cases as their own and is happy for their contact details to be included in the 'further contact details' column, please email the ALC.
7. The ALC is very grateful to Mr Gordon Reed (Consultant Solicitor at Messrs Sternberg Reed and Chief Assessor of the Law Society's Children Law Accreditation Scheme) for producing a schedule of cases which the ALC has been able to lift from in order to create this schedule.

| Case name                 | Web link | Summary   | Award / settlement figure      | Issues re: legal costs | Further contact details |
|---------------------------|----------|---|--------------------------------|------------------------|-------------------------|
| W v UK (1987) 10 EHRR 453 |          | Art 8 – insufficient involvement in decision-making, termination of contact and length of proceedings. Art 6 – non-availability of remedy | £12,000 each P<br>Adjusted for |                        |                         |

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|   |  |   | 2016: £30,534*                                      |  |  |
| H v UK (1991) 13 EHRR 449                           |  | Breach of Art 6 – length of proceedings unreasonable (Nov 1978 to Jun 1981); failure of LA to notify parties of placement for adoption for 5 mths. Breach of Art 8 – delay in proceedings. Consideration of damages adjourned                           | £12,000<br><br>Adjusted for 2016: £28,000*          |  |  |
| TP & K Mother v UK [2001] 2 FLR 549                 | <a href="file:///C:/Users/na9940.MSP.001/Downloads/001-59456.pdf">file:///C:/Users/na9940.MSP.001/Downloads/001-59456.pdf</a>  | Breach of Art 6 not found. Breach of Art 8 on basis of failure to involve in decision-making by not disclosing relevant info/docs. Breach of Art 13 – non-availability of remedy to determine allegations of LA. Breach of Art 8. 1 yr period of breach | £10,000 each P<br><br>Adjusted for 2016: £14,845*   |  |  |
| P, C, & S v UK [2002] 2 FLR 631                     | <a 00"],"itemid":["001-60610"]}"="" appno":["56547="" href="http://hudoc.echr.coe.int/en/g#{">http://hudoc.echr.coe.int/en/g#{"appno":["56547/00"],"itemid":["001-60610"]}</a> | Breach of Art 6 – lack of representation; Breach of Art 8 – removal of C shortly after birth,; lack of involvement in decision-making   | €12,000 each applicant (£13,115)                    |  |  |
| Venema v The Netherlands [2003] 1 FRC 13            | <a href="file:///C:/Users/na9940.MSP.001/Downloads/001-60824.pdf">file:///C:/Users/na9940.MSP.001/Downloads/001-60824.pdf</a>  | Breach of Art 8 – non-involvement in decision-making; separation of 5 mths, distress and anxiety  | €15,000 collectively to Ps (£16,153 - c£8,000 each) |  |  |
| Coventry CC v C [2012] EWHC 2190 (Fam)              | <a href="http://www.bailii.org/ew/cases/EWHC/Fam/2012/2190.html">http://www.bailii.org/ew/cases/EWHC/Fam/2012/2190.html</a>  | Quantum of damages under s.7 agreed between recipient M and LA. Quantum not set out in transcript although there is reference to it being utilised to provide long needed therapy for M.  | Unknown   |  |  |
| H (A Child - Breach of Convention Rights - Damages) | <a href="http://www.bailii.org/ew/cases/EWFC/HCI/2014/38.html">http://www.bailii.org/ew/cases/EWFC/HCI/2014/38.html</a>  | Birth 16.5.13; Application 29.4.14; Placement agreement 3.6.13; Final order 29.10.14. Effect on P [paras 41-46]; Declarations [paras 49-50]. Quantum [para 86]. 11 mth period of breach   | £6,000 each P                                       |  |  |

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| [2014]<br>EWFC 38  |   |  |  |  |   |
| Northamptonshire County Council v AS & Ors (Rev 1) [2015] EWHC 199 (Fam) | <a href="http://www.bailii.org/ew/cases/EWHC/Fam/2015/199.html">http://www.bailii.org/ew/cases/EWHC/Fam/2015/199.html</a> | S.20 accommodation 30.1.13 (when C 15 days old); Decision to commence proceedings 23.5.13; Application 5.11.13; Family placement 17.10.14; Final Hearing 30.1.15. LA failure to comply with directions. 10 mth period of breach  | £12,000 to C<br>£4000 to each P<br><br>(NB – agreed settlement figures, not award) |  |   |
| Williams & Anor v London Borough of Hackney [2015] EWHC 2629 (QB)        | <a href="http://www.bailii.org/ew/cases/EWHC/QB/2015/2629.html">http://www.bailii.org/ew/cases/EWHC/QB/2015/2629.html</a> | Multiple cause of action – most dismissed. However, court found that s.20 agreement was not validly obtained or, in any event, was subsequently withdrawn. Police protection 5.7.07; Agreement 6.7.07; Withdrawal 13.7.07; children returned 11.9.07. 2 mth period of breach   | £10,000 each P   |  |   |
| Re AS (unlawful removal of a child) [2015] EWFC B150                     | <a href="http://www.bailii.org/ew/cases/EWFC/OJ/2015/B150.html">http://www.bailii.org/ew/cases/EWFC/OJ/2015/B150.html</a> | Unlawful removal. C into foster care - 9.10.14. Legal planning meeting decides should issue s.31 proceedings - 13.10.14. Letter sent to M first informing her of foster care and intended issue – 16.10.14. Proceedings issued - 11.11.14. 1 mth period of breach  | £3000 to M   | £750 costs   |   |
| Medway Council v M & T [2015] EWFC B164                                  | <a href="http://www.bailii.org/ew/cases/EWFC/OJ/2015/B164.html">http://www.bailii.org/ew/cases/EWFC/OJ/2015/B164.html</a> | Breach of Art 6 by: - Failure to issue care proceedings in a timely manner – delay of 2 yrs, 3 mths AND breaches of Art 8 by: - Unlawful removal from M’s care; - Failure obtain capacitous s.20 consent; - s.20 without consent 2 yrs, 3 mths; - Failure inform M / involve her in decision making; - Failure adequately address issues re: M and C relationship and contact; - delay in addressing the above | £20,000 each for T & mother.   | Costs adjourned, then later awarded in full against LA including costs of care proceedings (no report or transcript available) | Kate Makepeace Grieve, Counsel for M: (E): <a href="mailto:kgrieve@36family.co.uk">kgrieve@36family.co.uk</a> |

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| Worcestershire CC v mother and B (a child) [2016] EWFC B10 | <a href="http://www.bailii.org/ew/cases/EWFC/OJ/2016/B10.html">http://www.bailii.org/ew/cases/EWFC/OJ/2016/B10.html</a> | Breach of Articles 6 and 8 by: - delay in issue of proceedings (app to revoke placement order) for 3 yrs; - Failure to consider properly contact between C and M (and maybe F) and the possibility of sibling contact   | £5,000 to C  | LA to pay entire costs (care and HRA proceedings).  |  |
| Kent CC v M & K [2016] EWFC 28                             | <a href="http://www.bailii.org/ew/cases/EWFC/HCI/2016/28.html">http://www.bailii.org/ew/cases/EWFC/HCI/2016/28.html</a> | Breaches of Arts 6 and 8 by: - Failure issue care proceedings in a timely manner – delay of 3 yrs, 8 mths; - Failure properly assess C for 3 yrs, 4 mths; - Failure to implement care plan including failure give effect to recommendations of LAC reviews, 3 yrs, 4 mths; - As result of above, failure secure long-term placement and settled home life | £17,500 to C   | LA to pay costs of HRA application only   |  |
| Thurrock BC v CW & BB<br>2016                              | Unreported  | Breach of Art 6 by delay in issuing care proceedings – 13 mths from commencement of accommodation to issue of proceedings. Breach of Art 8 by: - Failure to promote contact with M; - Failure to promote sibling contact; - Failure to promote contact with extended family; - Failure to provide counselling   | £7,500 to C (agreed between parties and approved by court) | LA to pay entire costs (care and HRA proceedings). PTA to LA on issue of costs, but no appeal lodged at 12.1.17 | Solicitor for the child: Gordon Reed   (E): <a href="mailto:Gordon.Reed@sternberg-reed.co.uk">Gordon.Reed@sternberg-reed.co.uk</a> |

\* **Note:** for these very old and / or European cases the updated figures were arrived at using the Kemp & Kemp inflation calculator but those figures are not necessarily reliable as the calculator is a blind inflation tool. 'Remedies' (2016) edited by David Emmet (Publisher: OUP) states at para. 11.9.2.6: "Generally speaking, awards more than ten years old are of little practical help."