

BHATT MURPHY SOLICITORS
PRESS RELEASE
22 February 2013
(FOR IMMEDIATE RELEASE)

**VICTORY FOR CLAIMANTS IN CHILDREN AND PREGNANT WOMEN USE
OF FORCE CHALLENGE**

Chen and Others v SSHD CO/1119/2013

In an eleventh hour concession the UKBA accepted the need for a policy on the use of force against children and pregnant women in the exercise of immigration powers.

The four Claimants in this judicial review, a pregnant woman and three children, brought this claim on behalf of all children and pregnant women within the immigration system, challenging the legality of the UKBA's practice of using force against these two groups in the absence of any clear policy limiting its use.

Shortly before the hearing for an injunction in the High Court today, the UKBA re-published an old policy addressing the use of force against pregnant women and children. That policy prohibits the use of force save where absolutely necessary to prevent harm.

This climb-down avoided the need for the court to extend an injunction which the Claimants had obtained in early February from Mr Justice Collins which prevented the use of force save to prevent harm occurring.

Mr Justice Collins had stated in granting that injunction:

'I hope that the Defendant recognises that the prima facie use of force against children and pregnant women is generally speaking unacceptable unless clear and appropriate limitations on its use by properly trained persons are set out.'

In court before Mr Justice Turner today, UKBA accepted that it is necessary for a policy to be in place and announced that they had published a policy today on UKBA's website. Furthermore, that policy makes clear that force can only be used as a last resort to prevent harm and not to effect removal.

Mr Justice Turner stated:

'The Claimants fear the lack of policy means inadequate safeguards being in place but in a very late development the Defendant has now reintroduced the policy that was in place between September 2009 and March 2012'

He criticised the UKBA's policy position which had led to the claim, saying:

'It is not appropriate in my view that policies of this importance should disappear and reappear'

Recognising the importance of the challenge, the Judge stated that 'the Claimants have achieved a substantial part of their objective' and that in the light of the new policy it was not necessary to continue the injunction. Addressing the Claimants' Counsel, he said 'You pretty much did the job you set out to do'.

The Judge also stated that there needed to be an immediate consultation on the terms of the policy applying to children and pregnant women:

'There should be a full and prompt consultation as to what policy should apply in this area'

Janet Farrell and Jane Ryan of Bhatt Murphy act for the Claimants. Janet Farrell stated:

'This U-turn by UKBA is a significant victory for all children and pregnant women within the immigration system. The UKBA must now undertake an urgent and proper consultation in respect of the use of force against these vulnerable groups, including the four claimants.

The reinstatement of the old policy should ensure that force is only used in very exceptional circumstances where it is absolutely necessary to prevent harm.'

For further information contact:

Janet Farrell or Jane Ryan at Bhatt Murphy by e-mail on j.farrell@bhattmurphy.co.uk or j.ryan@bhattmurphy.co.uk or by telephone on 020 7729 1115