



Practice

David has practised in housing law from the beginning of his career to the present day. That has included possession cases, declarations as to status (including Rent Act protection), repairs, homeless persons cases, unlawful eviction, mobile homes, squatting including adverse possession, allocation of accommodation, Children Act and National Assistance Act accommodation duties, rent registration, racial harassment possession claims, and prosecutions for harassment/unlawful eviction and permitting statutory nuisance in residential property under the Environmental Protection Act.

He has practised in planning law for many years. His planning practice is almost entirely (but not exclusively) on behalf of gypsies and travellers and those with alternative lifestyles. It includes planning inquiries, planning injunctions, statutory appeals and judicial review. In June 2006, he appeared at the Olympics Public Inquiry for the residents of affected travellers sites. The Inspector recommended that the Olympics development should not proceed until alternative sites for the travellers had been identified but the Secretary of State did not agree.

He has appeared in courts at all levels including Rent Assessment Committees (Residential Property Tribunals), magistrates courts, county courts, Administrative Court (Queens Bench -judicial review), Chancery Division, Court of Appeal and House of Lords.

Also on Thursday 20th August 2009 when the Registry of the Supreme Court of the United Kingdom (the replacement for the House of Lords Judicial Committee- the Highest Court of Appeal in the UK) opened for business in the former Middlesex Guildhall, Parliament Square amongst the first cases filed (the 3rd) was an application to appeal in *Central Bedfordshire Council v Taylor* which had been drafted by David instructed by Pierce Glynn, solicitors (Court of Appeal Judgments 23/6/09). *Taylor* was the latest in the recent series of cases concerning the effect of Article 8 of the European Convention on Human Rights (right to respect for private and family life and the home) and the Human Rights Act 1998 on possession cases) and raises issues about the relevance of the occupiers' personal circumstances, the role of proportionality when public authorities are deciding to seek possession and the courts' powers to suspend possession orders against trespassers. Subsequently on 5 November 2009 the Supreme Court refused permission to appeal.

David is also an executive member and former vice -chair of the Housing Law Practitioners' Association (HLPAs) and is the past and current convenor of its Housing Law Reform sub-Committee. He is a member and a former executive member of the Administrative Law Association (ALBA). He was a member (2000-2003) of the Civil Justice Council, a statutory body, which reviews the civil justice system and refers proposals for change to the Ministry for Justice. He was the 1st Chair and continued (until 2011 when it ceased its functions) to be member of its Housing and Land (later Property) Committee, which drafted the Pre-Action Protocol for Possession Claims based on Rent Arrears which came into force on 2nd October 2006. In 2008 the Committee drafted a pre - action protocol for Mortgage Arrears possession cases which came into force on 19th November 2008.

David was also a member of the DCA's (Department of Constitutional Affairs) working group which produced a new form for possession orders (N28A) and an

Year of Call

1972

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Education

LLB, MA (Cantab)

Languages

French, some Spanish, some German.

Practice Areas:

David Watkinson is a member of the following Practice Areas:

- Civil Law
- Gypsy & Traveller Rights
- Housing
- International Advice and Litigation
- Mediation
- Planning & Environmental Law
- Property Law
- Public & Administrative Law

Garden Court Chambers

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addition to the Practice Direction to CPR 55 (Part IV) to avoid the creation of "tolerated trespassers" in secure tenancy cases following the Court of Appeal decisions in Harlow DC v Hall and Bristol CC v Hassan. The new form and PD came into force on 4/7/06.

He received the "Barrister of the Year " award at the 2005 LALY (Legal Aid Lawyer of the Year) awards ceremony presented by Cherie Booth QC.

He was recommended as a leading Junior in Social Housing in Chambers UK Directory 2007 -2012.

In Legal 500 2011 under "Planning", David was described as "an outstanding barrister, with an excellent understanding of the law and provides quality advice "

He taught the housing law course at Warwick University in 1984, and has lectured at many courses, conferences and meetings since then organised by Garden Court Chambers, Legal Action Group, Housing Law Practitioners Association, South Bank Polytechnic, Warwick University, Administrative Law Bar Association, the Law Society Local Government Group, Professional Solutions, Planning Aid, Capita Conferences and the Legal Services Commission.

In August 2008 he completed Accredited Mediator Training and in September 2009 he began practice as a mediator.

In October 2011 he became Acting Joint Head of Garden Court Chambers with Henry Blaxland QC following the resignation of Owen Davies QC as Head of Chambers upon taking up appointment as a circuit judge

Publications

David's publications include contributions to:

"Law in a housing crisis " Legal Action 1975

"Squatting Trespass and Civil Liberties " (co-author) NCCL (Liberty) 1975

"Squatting - The Real Story" ed Nick Wates Bay Leaf Press 1980

NCCL Civil Rights Guide Penguin 1980

"Gypsy and Traveller Law " ed C. Johnson and M. Willers LAG 2004, 2nd ed 2007

He has also written articles throughout his practice- in Legal Action, All England Legal Opinion, Solicitor's Journal, Home Truths (HLPAs magazine), Roof (Shelter's Housing magazine), and the Haldane Society Bulletin and recently for "From the Lawyers' Collective(Mumbai) He provides an update on Housing Benefit Law with two other members of Chambers for Legal Action once a year, the most recent being in September 2011.

Notable cases

David's cases have been reported in the official and specialist Law Reports throughout his career. Amongst the many are:



R v Wandsworth County Court [1975] 1 WLR 1314 QB (bailiffs powers - eviction of non-defendants)

Leith Properties v Springer [1982] 3 ALLER 731 CA (Rent Act-possession-lawful/unlawful tenancy binding head landlord)

Puhlhofer v London Borough of Hillingdon [1985] AC 484 HL (definition of homelessness - judicial review)

R v Lincolnshire CC EX P Atkinson [1996] 8 Admin Law Rep 529 QB (gypsies -eviction under Criminal Justice and Public Law Act 1994- relevance of considerations of humanity)

Bruton v L+Q Housing Trust [2001] 1 AC 406 HL (licence or tenancy; estoppel where landlord a licensee)

Malazam Hussain v Lancaster County Council[2000] QB 1 CA (harassment nuisance - LHA liability)

London Borough of Lambeth v Howard [2001] 33 HLR 636 CA (HRA - Human Rights Act 1998 -possession and secure tenancies)

Gallagher v Castle Vale Action Trust Ltd [2001] 33 HLR 810 CA (HRA possession - effect on secure tenant of HAT)

McClellan v Bracknell District Council [2002] QB 1129 CA (HRA - effect on introductory tenancies)

South Bucks District Council v Porter [2002] 1 All ER 425 CA (gypsies planning injunctions - HRA)

Chichester DC v 1st SoS and Doe, Yates and anor[2004] 1 WLR 279 CA (gypsies- planning inquiries - impact of the HRA)

Kay v Lambeth LBC and L and Q Housing Trust[2006] 2 AC 465 (Article 8 ECHR-defence for trespassers-public law defences to possession proceedings by way of review by the court of the public authority's decision to recover possession , and the effect of European Court of Human Rights Judgements in UK Courts)

Broadway Investments v Grant [2007] HLR 23 CA Distinction between assured tenancy Housing Act 1988 from business tenancy Landlord and Tenant Act 1954. Arose out of programme of sale by LB Hackney of shop premises, with residential property included to investment companies. Focus of campaign to preserve local shopkeepers. Appeal dismissed but shopkeeper remained in occupation for two years after the possession order.

Basildon District Council v McCarthy and ors[2008] EWHC 987 (Admin) (9/5/08), [2009] EWCA Civ 13 (22/1/09)(scope of s 178 Town and Country Planning Act 1990 power to evict unauthorized gypsy encampments by direct action, effect of homelessness duties on decision to evict (Council lost in the Administrative Court, succeeded in the Court of appeal, Claimant's petition to the House of Lords later dismissed)

Truro Diocesan Board of Finance v Foley [2009] 1 ALLER 814 (interpretation of the provisions as to continuation of protected tenancies after the coming into force of the Housing Act 1998 applying the HRA, meaning of agreement for a tenancy)

Rafferty v SoS for Communities and Local Government [2009] EWCA Civ 809 (Judgements 29/7/09) (planning decision preventing gypsies from moving their



caravans onto land they own as much a breach of Article 8 as a decision requiring them to move off - accordingly Article 8 relevant to a planning permission decision even when the gypsies are not occupying the land for which permission is being sought at the time the decision is made)

Wayne Smith v Land Registry [2010] EWCA Civ 200 (Judgments 10/3/2010).

The Court of Appeal held that in principle title by adverse possession could be acquired of a highway but not in the particular case as it was a highway "maintainable at public expense" and so title remained vested in the local highway authority pursuant to s.263 Highways Act. The Court left open whether the occupier could employ an Article 8/public law defence if the highway authority took possession proceedings.

KAY v UK (*Application no 37341/06*) ECtHR Judgment 21/9/10 - **Kay v LBL in the European Court of Human Rights- Court ruled that there was a breach of Article 8 of the Convention as the occupiers were dispossessed without an independent tribunal determining the issue of proportionality. The domestic court's review jurisdiction was inadequate. The Court awarded the applicants damages and the bulk of their costs**

Professional Memberships

- Housing Law Practitioners' Association (HLPAs)
- Administrative Law Bar Association (ALBA)
- Legal Action Group
- Liberty
- Haldane Society of Socialist Lawyers

Profile updated January 2012