



## Practice

Edward is a specialist Housing Practitioner with a particular interest in Homelessness Appeals; Public Law challenges and cases involving Human Rights issues. Undertaking the full range of housing work on behalf of tenants/applicants he covers:

- Homelessness Appeals
- Judicial Review challenges
- Allocations
- Unlawful Evictions
- Anti-Social Behaviour
- Disrepair
- Security of Tenure
- Possession
- Succession
- Revival of Tenancies
- Homelessness cases: full panoply of challenges that can be made from eligibility to discharge of duty

Judicial Review: challenges as to Allocation schemes; provision of emergency accommodation; acceptance of applications.

Edward appears in substantial trials and appeals in the county court, as well as taking cases before the higher courts. Allied to Housing Work Edward undertakes Community Care cases normally involving challenges to prevent destitution. He has conducted Local Authority prosecutions against landlords for offences under the Protection from Eviction Act 1977.

Edward seeks to provide effective representations for applicants/tenants in all spheres of housing and related work adopting a measured and pragmatic approach. Very much a trial Counsel able to marshal complex cases that require careful preparation and vigorous advocacy. Having cut his teeth on criminal trials in the crown court well versed in dealing with factual disputes as well as refined legal argument.

Prepared to deal with cases that fall outside the mainstream in terms of this area; recently successfully acted in a professional negligence claim where the claim rested on a failure by the solicitor to serve the correct notice. Also acted in a case involving serious psychiatric injury as a result of harassment and unlawful eviction.

## Training

Edward regularly holds seminars on all aspects of housing law and related subjects. Prepared to provide in house training for solicitor's at their offices on requested topics. Always prepared to advise at any stage of litigation to ensure that cases are well prepared and issues are fully set out in advance of trial. Committed member of the Housing Law Practitioners' Association conducting lectures and seminars for the association. On the 24/2/11 led a HLPAs seminar entitled "Making Applications for Judicial Review".

Recent Seminars: Registered Social Landlords are they Public Authorities - 20/11/08 Garden Court ; Defending Possession Proceedings with DJ Sterlini - 24/6/09 Garden Court. Internal seminar on "Business Tenancies 30/6/11.

November 2009: Bar Council representative at the "Jackson Reform" consultation

### Year of Call

1990

### Email Address

edwardf@gclaw.co.uk

### Telephone

020 7993 7743

### Education

Honours Law Degree

### Practice Areas:

Edward Fitzpatrick is a member of the following Practice Areas:

- Civil Law
- Community Care
- Court of Protection
- Employment, Discrimination and Professional Regulation
- Housing
- Mental Health
- Property Law
- Public & Administrative Law

### Garden Court Chambers

57 - 60 Lincoln's Inn Fields  
London WC2A 3LJ

Tel 020 7993 7600

Fax 020 7993 7700



regarding housing disrepair.

## Background

Before coming to the Bar Edward worked for four years in the voluntary sector, roles included: Welfare Rights Adviser for Gingerbread Northern Ireland; Acting Manager for Belfast Housing Aid; providing specialist advice on Benefit and Housing matters; representing applicants at Social Security Tribunals and Rent Registration Tribunals; campaigning on benefit issues; taking test cases to establish tenant's rights for NI rent protected tenancies.

Edward then worked as a Housing Officer with a small Housing Association in London dealing with all aspects of housing management from allocations to disrepair problems; this provided some insight into the problems that can be faced by Social Landlords balancing demands for scarce accommodation.

### Recommendations:

Chambers UK 2011 said: *The increasingly popular Edward Fitzpatrick attracts attention for his "fantastic advocacy skills and tremendous enthusiasm for the subject"*

Chambers UK 2012 said : *" Cool and collected and very good with clients, who always like him"*

## Notable Cases

**Harrow LBC v Qazi** HL (junior counsel); this was the first case where the House of Lords considered whether Article 8 could be raised to provide an impediment to a possession claim against a former secure tenant in the county court : 2004 1 AC 983; 2003 UKHL 43; [2003] 3 W.L.R. 792

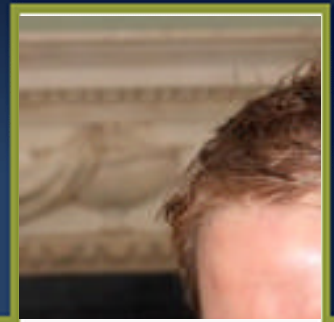
**R (on the application of Ariemuguvbe) v Islington LBC** [2010] HLR 14 CA Challenge with under Part VI Housing Act 1996 with regard to the application of the Council's allocation policy in terms of size of accommodation to be made available to a household including illegal overstayers; definition of "household" under the policy.

**London Borough of Dagenham v Bakare** B5/2011/1802 CA. Permission granted by the Court of Appeal (28/11/11) to challenge the making of an outright possession order in circumstances where the tenants son ( no longer living at the property ) was the perpetrator of anti social behaviour in the area; issues re proportionality and extent to which the viability of a suspended possession order has to be addressed.

**Haringey v Theobald**, Legal Action September 2011, possession claim successfully defeated by challenging a historical alleged previous succession/assignment to the Defendant's brother. Issue raised as to the requirements of an equitable assignment.

**Boyle v Musso**, Legal Action March 2011, appeared for the Claimant in a damages claim based on violent unlawful eviction total award of £19,000 for general damages with £2,000 for aggravated damages.

**Photis v Shamas**, Legal Action January 2011, appeared for Claimant, contested disrepair claim where Judge found levels of diminution in rental value increased



over the period of the tenancy and awarded significant damages.

**Mondeh v Southwark LBC** appeared for the Appellant, Legal Action November 2010. Homelessness Appeal where the family had fled from private rented accommodation alleging harassment and were found to be intentionally homeless for not staying where they were until the Landlord evicted them. Council dismissed their account as to the threats made that caused them to leave. The decision was quashed due to procedural unfairness with respect to selective findings made following interview, and a failure to consider and apply part of the code of guidance (para 8.32).

**Kendall v City of Westminster** appeared for the Appellant, Legal Action Nov 2009; successful appeal dealing with the extent to which the code of guidance dealing with "temporary aberration" could apply to an addiction over a period of months in a case involving a decision that the Appellant was "intentionally homeless".

**Batten v Toynbee Housing Association Ltd:** 29/6/09; CC/2008/PTA/0728 appeared for the Appellant on appeal to the High Court with respect to the extent to which relevant factors had to be taken into account in the exercise of the courts discretion to make a possession order.

**Opoku v McClelland CA 2009/0078;** appeared for the Appellant in a test case which eventually settled, involving an issue as to whether an *equitable assignment* was possible under section 91 Housing Act 195.

**Simms v Islington LBC** [2008] EWCA Civ 1083; Times Dec 3, 2008 homelessness case concerning priority need, concerning the extent to which the Authority were required to consider and address medical evidence in a review decision.

**Sesay v Islington LBC** (Sept08) Legal Action 25 homelessness priority need case where court quashed decision as reviewing officer had applied the wrong tests in assessing vulnerability. Making a comparison under the Periera guidance with others who had experienced trauma rather than an ordinary homeless person.

**Shala v Birmingham City Council** CA 2008 HLR 8; guidance provided by the court as to consideration of medical evidence in homelessness priority need cases, and the use of medical advisers.

**Osmani v Camden LBC** CA 2005 HLR 22; homelessness; priority need restatement of Pereira guidance.

**R (on application of Griffin) v Southwark LBC** [2005] HLR 12 repeat applications homelessness.

**R v Harrow DC ex p Bono** 2002 1WLR 2475; housing benefit case article 6 challenge with regard to the independence of the panel.

**John Lewis Plc v Coyne** [2000] UKEAT 581 best working test for dishonesty in the workplace.

**Post Office v Foley; HSBC v Madden** CA (2001) 1 All ER 550 guidance given on issue of reasonable investigation before dismissal; dismissal as a reasonable response.



## Barrister profile

# Edward Fitzpatrick



## Publications

Edward regularly submits case summaries for the housing section of legal action magazine.

Vulnerability as a result of psychiatric illness; HLPAs Newsletter March 05

## Societies

House Law Practitioners' Association

Profile updated January 2012