



GARDEN COURT CHAMBERS

# Edward Fitzpatrick

YEAR OF CALL: 1990



Edward is a specialist housing barrister with a particular interest in homelessness appeals, public law challenges and cases involving Human Rights and Equality Act issues. Edward also undertakes a range of regulatory and property law cases.

He is ranked for Social Housing in both the Legal 500 2019 in Tier 1 and Chambers UK Bar Guide 2019 in Band 1.

"He earns consistent praise for his measured and meticulous approach to complex homelessness and anti-social behaviour litigation."

CHAMBERS UK, 2021 (SOCIAL HOUSING, BAND 1)

"Approachable, straight to point and provides advice which is easy to understand. Very good rapport with lay clients and explains the law in plain English."

"A true all-rounder for all housing cases. He is always up to speed on the latest developments and can explain tricky concepts with ease. He carries the court with him with the reasonableness of his argument as he presents it."

CHAMBERS UK, 2020

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"He is a very talented barrister, with exceptional knowledge of housing law cases."

LEGAL 500, 2020

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"Has excellent knowledge and displays great judgement on cases. He's a very calm and clear advocate in court who is particularly good with vulnerable clients."

CHAMBERS UK, 2019

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If you would like to get in touch with Edward please contact the clerking team:

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You can also contact Edward directly:

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## HOUSING LAW

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Undertaking the full range of housing work and related work on behalf of tenants/applicants, Edward covers:

- **Homelessness appeals**
- **Judicial review challenges**
- **Allocations**
- **Unlawful evictions**
- **Anti-social behaviour**
- **Disrepair - tenancies and leases**

- **Security of tenure**
- **Possession**
- **Succession**
- **Revival of tenancies**
- **Homelessness cases: full panoply of challenges that can be made from eligibility to discharge of duty**
- **EPA prosecutions**

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.

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, he is able to marshal complex cases that require careful preparation and vigorous advocacy.

He is prepared to deal with cases that fall outside the mainstream in terms of this area; successfully acting for the claimant in a professional negligence claim where the claim rested on a failure by the solicitor to serve the correct notice.

## **NOTABLE CASES**

### ***Kannan v Newham* [2019] EWCA Civ 57**

Represented Appellant on successful appeal directed at a failure to take into account medical needs in assessing suitability of accommodation in which client required to stay for over 15 months, CA found that the period of the stay was not adequately considered and that reviewing officer had not addressed adequately the main issues raised on the appeal and had failed to comply with the Public Sector Equality Act Duty in assessing the case, a mere recital of guidance was not sufficient.

### ***Paragon Community Housing v Neville* CA [2018] EWCA Civ 1712**

Test case with respect to whether any threshold criteria applied with respect to the introduction of arguments under section 15 and section 35 Equality Act at the warrant stage, where there has been a Suspended Possession Order agreed previously.

### ***Olowu v Circle* 33 CA B5/2016/2421**

Challenge on appeal to the Court of Appeal from a possession trial with a disrepair Part 20 claim alleging that

the District Judge had failed to differentiate adequately as to periods when the Defendant has not provided access for works to be carried out and had failed to make appropriate findings of fact in respect of a long period where there was no evidence of obstructive behaviour. Permission to appeal granted at an oral hearing, thereafter the appeal was settled.

***Breaks v Rimikiene LTL 22/3/18***

Representing tenant in the High Court on appeal by Landlord on liability in respect of findings made in a disrepair case, appeal dismissed.

***Woods v Westminster City Council Legal Action April 2014 p24***

Homelessness appeal re section 191 dealing with a situation where the applicant had surrendered her tenancy whilst in custody and whether this not the conviction was the effective cause of her homelessness.

***Faulkner v City of Westminster Legal Action June 2014 p38***

A challenge as to "priority" need where issue raised as to procedural fairness in dealing with the medical evidence presented and recent deterioration in applicants condition.

***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

***Chishimba v Royal Borough of Kensington & Chelsea 25/3/13 CA(junior counsel)***

Successful appeal involving challenges with respect "causation" and "whether reasonable to continue to occupy accommodation". Court of Appeal invited to review a number of cases on both topics in reaching their decision.

***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 over stayers; 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* (September 2008) 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 Pereira 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 LB* 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.

## **PROPERTY DISPUTES**

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Edward undertakes a range of regulatory casework including prosecutions in the Magistrates Court due to failure on the part of landlords to comply with improvement notices (recent case where landlord fined £50,000 for multiple breaches) and prosecutions with respect to unlawful eviction.

Edward is very experienced in property litigation including: leasehold disputes; defending cases where issues raised re proprietary and equitable estoppel; Tolata claims; arguments over Title; claims based on subsidence. service charge disputes; applications under business tenancies; commercial relief against forfeiture applications; boundary disputes.

## **EMPLOYMENT AND DISCRIMINATION LAW**

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***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.

## BACKGROUND

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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.

## TRAINING AND SEMINARS

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Edward regularly holds seminars on all aspects of housing law and related subjects. Prepared to provide in house training for solicitors 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.

## EDUCATION

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- **Honours Law Degree**

## PROFESSIONAL MEMBERSHIP

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- **Housing Law Practitioners' Association**

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