



Nick Bano

YEAR OF CALL: 2013



Nick Bano specialises in representing homeless people, residential occupiers, and destitute & migrant households in both public law and private law disputes.

He has appeared in a number of significant Court of Appeal and High Court cases, and his expertise in social housing is recognised by Chambers & Partners and Legal 500.

Nick has particular expertise in cases where equality rights and social entitlement overlap. He has been instructed in many of the important cases in this area, including *Forward v Aldwyck* and *London & Quadrant v Patrick* (on the Public Sector Equality Duty in housing possession claims) and *Adesotu v Lewisham* (on the County Court's jurisdiction to consider discrimination challenges in homelessness cases).

"Quick-thinking and creative."

CHAMBERS & PARTNERS 2021

"A rising star in housing law"

CHAMBERS & PARTNERS 2020

"Clients feel that Nick is really fighting their corner"

CHAMBERS & PARTNERS 2019

"Gives very detailed advice and leaves no stone unturned"

CHAMBERS & PARTNERS 2019

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

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HOUSING LAW

Nick's practice covers all aspects of legally aided housing law. He has a great deal of experience in homelessness cases, as well as possession claims that turn on equality rights and complex public law issues. He has a particular interest in technical defences to section 21 claims

For the first few years of his practice Nick specialised in criminal defence work, which makes him an excellent trial advocate.

Chambers and Partners and Legal 500 recognise Nick as a leading junior in this field.

NOTABLE CASES

Intentional homelessness and 'settled' accommodation

Bullale v Westminster [2020] EWCA Civ 1587

Nick was instructed in the first appeal, and was led by Liz Davies in the Court of Appeal, in a case concerning the relationship between statutory overcrowding and 'settled' accommodation in 'intentional homeless' cases.

The homeless applicant succeeded in the Court of Appeal.

Service of notices on deceased tenants

Gateway HA v Begum [2021] 1 WLR 289, CA

An important landlord and tenant case in which the Court of Appeal considered the proper procedure for serving notice to quit where the tenant had died intestate. Nick succeeded as trial counsel, and was led in the Court of Appeal.

Homelessness: jurisdiction

James v Hersmere BC [2020] 1 WLR 3606, CA

The Court of Appeal re-considered the correct approach to the County Court's jurisdiction in homelessness appeals. Nick had argued a 'contracting out' point in the court below, and was led in the Court of Appeal.

Discrimination challenges in homelessness cases

Adesotu v Lewisham [2019] 1 WLR 5637, CA

Nick sought to raise (apparently for the first time) a discrimination challenge in a statutory homelessness appeal. The County Court's decision to strike out the challenge led to a Court of Appeal case concerning the nature of the courts' jurisdictions under the Housing Act 1996 and Equality Act 2010. The Equality and Human Rights Commission intervened. Nick was led in the Court of Appeal by Liz Davies.

The PSED as a defence to possession claims

Forward v Aldwyck [2019] HLR 47, CA

During the trial of a possession claim Nick established during cross-examination that the landlord had breached its PSED. The court nonetheless ordered possession, and that decision was upheld on appeal to the High Court. On the second appeal the Court of Appeal considered the nature of the PSED as a public law 'process' duty and approved the High Court's judgment in *L&Q v Patrick* [2019] EWHC 1263, which was another case in which Nick had appeared for the disabled tenant.

Interim relief in housing judicial reviews

Nolson v Stevenage [2020] EWCA Civ 379

After the Administrative Court had dismissed a renewed oral application for interim relief (holding that it had no jurisdiction), Nick was instructed in an appeal to the Court of Appeal. The appeal was initially disposed of on the papers but Nick persuaded Hickinbottom LJ to list the matter for an application to re-open the appeal, given the importance of the point. The application was dismissed as academic but the Court of Appeal provided important guidance on procedure.

The nature of the PSED defence

Patrick v London & Quadrant HT [2020] HLR 3, QBD

Another case in which Nick appeared for a disabled social housing tenant, the High Court's decision Patrick is now the leading authority on the nature of the Public Sector Equality Duty as a defence to possession proceedings (having been cited with approval by the Court of Appeal).

Homelessness, discrimination and domestic violence

R (FB) v Camden (Women's Aid intervening) (2020)

Nick was instructed to bring an emergency judicial review by a vulnerable survivor of domestic violence, to whom the council had provided inadequate accommodation in a mixed-gender hostel. Interim relief was granted, and the claim was given permission to proceed as a policy challenge, concerning whether the way in which the local authority accommodated survivors of domestic violence was discriminatory. Stephanie Harrison QC was brought in as leading counsel, and Women's Aid (represented by Sophie Caseley, led by Shu Shin Luh) were granted permission to intervene. The parties agreed a settlement shortly before the final hearing

Successful allocations challenge

R (Embalo & Others) v Lambeth (2020)

A number of homeless families in Lambeth instructed Nick to bring a challenge to the council's 'Temp2Settled' scheme, which had resulted in a great many homeless households being removed from the council housing waiting list after they had accepted private sector offers. The claim was settled, with Lambeth agreeing to amend their scheme and add the affected households back on to the waiting list.

Suitability, temporary accommodation & children's rights

Anon v Lewisham (2018), Central London County Court

A homelessness appeal challenging the suitability of temporary accommodation. The County Court accepted that there is no separate category of 'temporary' accommodation where the 'main housing duty' is owed. The appeal succeeded on the ground that the council had failed to consider the impact on the children of their very long and difficult journey to school (commentary [here](#)).

Vulnerability and NowMedical

Thomas v Lambeth (Legal Action November 2017)

In a decision that a homeless person was not sufficiently 'vulnerable', the council had been wrong to rely on and adopt the approach of NowMedical. The medical adviser had based their decision on the absence of any more serious symptoms, instead of engaging with the applicant's actual condition. The case has been cited in a number of newspaper articles about the adequacy of NowMedical's reports.

Company landlords signing documents

Bali v Manaquel (Legal action June 2016)

On appeal to a circuit judge, Nick successfully argued the novel point that a company landlord was required to comply with section 44 of the Companies Act 2006 when signing company documents – which included the certificate required under the tenancy deposit protection regulations. As the certificate had not been properly signed and counter-signed the tenant had a valid defence.

ADMINISTRATIVE AND PUBLIC LAW

Nick has considerable experience of appearing in judicial review claims against local authorities and government departments, as well as in public law challenges in housing matters in the County Court.

NOTABLE CASES

Interim relief - procedure

Nolson v Stevenage [2020] EWCA Civ 379

After the Administrative Court had dismissed a renewed oral application for interim relief (holding that it had no jurisdiction), Nick was instructed in an appeal to the Court of Appeal. The appeal was initially disposed of on the papers but Nick persuaded Hickinbottom LJ to list the matter for an application to re-open the appeal, given the importance of the point. The application was dismissed as academic but the Court of Appeal provided important guidance on procedure.

Rationality challenge against a children's services

R (AA) v Southwark [2020] EWHC 2477

A successful judicial review challenging the lawfulness of the local authority's assessment of a destitute family under the Children Act 1989.

Discrimination challenge against a local authority

R (FB) v Camden (2020)

A judicial review claim challenging the way in which Camden Council accommodates homeless women who have fled domestic violence. Nick successfully obtained interim relief, and the parties agreed a settlement shortly before the final hearing (Women's Aid Federation of England intervened). Nick was led by Stephanie Harrison QC.

Public law principles in County Court claims

TM v Metropolitan [2020] EWHC 311

Following the recent decisions in *Forward v Aldwyck* and *L&Q v Patrick* (cases in which Nick appeared), the High Court reviewed the principles applicable to public law defences in housing possession claims. *TM* concerned the correct approach to section 31(2A) of the Senior Courts Act where the court has identified a breach of the Public Sector Equality Duty.

Retrospective ratification of ultra vires acts

James v Hershmere BC [2020] 1 WLR 3606

Nick appeared at first instance in a case that where the local authority had failed to properly contract-out its functions because the contract was granted by an official who was not entitled, under the scheme of delegation, to do so. The court at first instance held that the ultra vires act had been retrospectively ratified by the leader of the council just a few days before the hearing. The Court of Appeal considered the public law point, as well as a broader issue about jurisdiction.

Successful allocations challenge

R (Embalo & Others) v Lambeth

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Successful challenge to an NRPF policy

R (AA) v Essex; R (CO) v Essex (2019)

Two simultaneous challenges to Essex Council's 'no recourse to public funds' policy on the grounds that it made no provision for Zambrano carers, imposed unlawful residence criteria and provided unlawfully low rates of subsistence. The claims were settled (after the Administrative Court granted interim relief and permission) when Essex withdrew its policy.

Interim relief against two public bodies

R (FA) v Redbridge & SSHD [2018] EWHC 2189 (Admin)

Nick succeeded in two contested interim relief applications concerning the application of section 122 of the Immigration and Asylum Act 1999 (whether the local authority had reasonable grounds for believing that the Home Office could be required to provide asylum support). At the second hearing, interim relief was ordered against both the local authority and the Home Office.

COMMUNITY CARE LAW

Nick is frequently involved in bringing claims relating to children's rights and adult social care. He has an excellent grasp of the eligibility criteria and substantive rights under the Children Act and Care Act, as well as a strong tactical insight into local authority decision making.

NOTABLE CASES

Section 17 and credibility

R (AA) v Southwark [2020] EWHC 2477

The Administrative Court considered another challenge in the 'culture of disbelief' line of cases (where local authorities decide that the family has failed to prove the negative of its destitution). Nick successfully represented the Claimant.

Discontinuing support

R (SS) v Greenwich (2019)

Nick successfully obtained interim relief on the papers for a destitute family that had been sleeping in a disability mobility vehicle. The case raised the unsettled question of whether (or in what circumstances) a local authority may stop providing section 17 support while the family remains in need. Edis J said that the claim "may raise some complex legal issues". Permission for judicial review was later granted.

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BACKGROUND

Before becoming a barrister Nick worked in the advice sector (he was a caseworker at a number of law centres).

Nick also had a number of roles in the international sphere. He worked at the UN's International Labour Organization in Geneva, the Yugoslavia tribunal in The Hague, and the International Centre for Trade Union Rights (a labour rights NGO).

PROFESSIONAL MEMBERSHIP

Housing Law Practitioners Association

Haldane Society of Socialist Lawyers (vice-chair)

International Centre for Trade Union Rights

Legal Sector Workers United

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