Recent developments in housing law

Jan Luba QC and **Nic Madge** continue their monthly series. They would like to hear of any cases in the higher or lower courts relevant to housing. In addition, comments from readers are warmly welcomed.

POLITICS AND LEGISLATION

New non-secure tenancies in social housing

On 20 October 2010, in a letter to housing authorities detailing the outcome of the spending settlement on social housing, the housing minister (Grant Shapps MP) gave a brief outline of the new social housing tenancy that the coalition government proposes be introduced.[1] He wrote:

… in future, housing associations will have another option to offer households who need support for a fixed period. We are calling it Affordable Rent. This new tenure will allow greater flexibility, focus state support on those in greatest need for as long as they need it and secure greater value for money for taxpayers. I will be setting out further details on these reforms shortly.

Regulating social housing

The coalition government's review of the regulation of social housing culminated in the publication of its final report, which looks at the context for the review, sets out its main conclusions and outlines the implications for the organisations and individuals affected: *Review of social housing regulation (Communities and Local Government* (CLG), October 2010).[2] The main proposals that the coalition government is taking forward are:

- to replace the Tenant Services Authority with an Independent Regulation Committee which will be set up within the Homes and Communities Agency; and
- social landlords will be expected to provide a range of opportunities to influence and participate in the scrutiny of their performance as part of a revised Tenant Involvement and Empowerment Standard. This will include the formation of tenant panels: CLG news release, 18 October 2010.[3]

Successors to secure tenants

On 18 October 2010, the coalition government published figures, in response to an information request, showing that around 90,000 council tenants in England, who had become successor tenants after the death of the original secure tenant since the introduction of secure tenancy succession by the Housing Act (HA) 1980, were still living in their council accommodation in 2007/08 (the last period for which figures were available).[4]

Homelessness in London

The coalition government is making available £10 million in funding this financial year for local authorities in London to help those households that are affected by the proposed housing benefit (HB) reforms. The funding can be used to provide financial advice, for renegotiating rents and for helping people move to more affordable accommodation. £750,000 has also been provided to support the 'No second night out' rough sleeper project in London: CLG news release, 25 October 2010.[5]

Rehousing for ex-offenders

The coalition government has announced an intention to launch a new scheme for England in which ex-offenders and single homeless people will be given help to find and maintain new homes in the private rented sector: CLG news release, 19 October 2010.[6] It is assumed that the new scheme will mainly address the needs of those who do not achieve statutory priority through a HA 1996 Part 7 homelessness application.

Gypsies and Travellers

On 11 October 2010, the coalition government announced that, following a consultation exercise, it intends to implement Housing and Regeneration Act 2008 s318, which is designed to extend tenancy rights for Gypsies and Travellers on authorised local authority Gypsy and Traveller sites by including them within the protection of the Mobile Homes Act 1983: CLG news release, 11 October 2010.[7] It also published *Consultation on implementing the Mobile Homes Act 1983 on local authority Gypsy and Traveller sites: summary of responses* (CLG, 12 October 2010).[8]

POSSESSION CLAIMS AND ARTICLE 8

■ Manchester City Council v Pinnock

[2010] UKSC 45,
3 November 2010,
[2010] 3 WLR 1441,
[2010] Times 4 November

Mr Pinnock lived with his partner and five children in a house which he had rented for some 30 years from Manchester. After complaints of a number of serious incidents of anti-social behaviour on the part of Mr Pinnock's family (but not himself) at or near the property, Manchester obtained a demotion order under HA 1985 s82A. Subsequently, one of Mr Pinnock's sons was convicted of obstructing a police officer at the premises and another pleaded guilty to causing death by dangerous driving and driving while disqualified near to the premises. In June 2008, just before the date when Mr Pinnock's demoted tenancy would have reverted to being a secure tenancy (HA 1996 s143B), Manchester served notice of proceedings for possession. Mr Pinnock requested a review and was represented at an oral hearing by his solicitor. The panel upheld the decision to terminate his tenancy. Mr Pinnock defended the subsequent possession claim.

HHJ Holman made a possession order under HA 1996 s143D(2), which provides that a court 'must make an order for possession unless it thinks that the procedure under [ss]143E and 143F has not been followed'. Mr Pinnock appealed. The Court of Appeal dismissed his appeal ([2009] EWCA Civ 852; September 2009 *Legal Action* 31). Mr Pinnock appealed to the Supreme Court.

In a single judgment, delivered by Lord Neuberger MR, the Supreme Court held that:

- article 8 of the European Convention on Human Rights ('the convention') requires courts asked to make possession orders against demoted tenants under section 143D(2) to have the power to consider whether the order would be 'necessary in a democratic society'; and
- section 143D(2) is compatible with article 8.

Lord Neuberger stated that the court's observations relating to local authority landlords applied equally to other social landlords to the extent that they are public authorities under the Human Rights Act 1998,

but nothing in the judgment applied to private landowners.

After considering the European Court of Human Rights' (ECtHR's) jurisprudence on article 8 and possession claims in general, he said that if UK 'law is to be compatible with article 8 ... the court must have the power to assess the proportionality of making the order, and, in making that assessment, to resolve any relevant dispute of fact' (para 49).

After referring to the decisions of the House of Lords in *Harrow LBC v Qazi* [2003] UKHL 43; [2004] 1 AC 983, *Kay v Lambeth LBC* [2006] UKHL 10; [2006] 2 AC 465; and *Doherty v Birmingham City Council* [2008] UKHL 57; [2009] 1 AC 367, he stated that it was 'unnecessary to consider them in any detail' (para 26). As there was 'now [an] unambiguous and consistent approach of the [ECtHR]', the Supreme Court had to consider whether it was appropriate to depart from those decisions (para 46). Although the Supreme Court was not bound to follow Strasbourg decisions: 'Where ... there is a clear and constant line of decisions whose effect is not inconsistent with some fundamental substantive or procedural aspect of our law, and whose reasoning does not appear to overlook or misunderstand some argument or point of principle, we consider that it would be wrong for this court not to follow that line' (para 48). The Supreme Court should now accept and apply the minority view of the House of Lords in *Qazi*, *Kay* and *Doherty*.

Lord Neuberger referred to the view that it would only be in exceptional cases that article 8 proportionality would even arguably give a right for an occupant to remain in possession where there was no such right under domestic law (see, for example, *McCann v UK* App No 19009/04; (2008) 47 EHRR 40, para 54 and *Kay v UK* App No 37341/06, para 73). However, he stated that consideration of proportionality arguments should not be limited to 'very highly exceptional cases'. It would be:

> *... both unsafe and unhelpful to invoke exceptionality as a guide ... [E]xceptionality is an outcome and not a guide* (para 51).

However, a local authority's aim in wanting possession should be a 'given', which does not have to be explained or justified in court.

> *[T]he court will only be concerned with the occupiers' personal circumstances ... the fact that the authority is entitled to possession and should, in the absence of cogent evidence to the contrary, be assumed to be acting in accordance with its duties, will be a strong factor in support of the proportionality of making an order for possessio*n (para 53).

He continued by stating that:

> *... in virtually every case where a residential occupier has no contractual or statutory protection, and the local authority is entitled to possession as a matter of domestic law, there will be a very strong case for saying that making an order for possession would be proportionate. However, in some cases there may be factors which would tell the other way* (para 54).

The Supreme Court declined to give further guidance, stating that: 'The wide implications of this obligation' to consider the proportionality of making a possession order are 'best left to the good sense and experience of judges sitting in the county court' (para 57).

> *... if an article 8 point is raised, the court should initially consider it summarily, and if, as will no doubt often be the case, the court is satisfied that, even if the facts relied on are made out, the point would not succeed, it should be dismissed. Only if the court is satisfied that it could affect the order that the court might make should the point be further entertained* (para 61).

These comments appear to apply to all kinds of occupancy lacking security of tenure, not just demoted tenancies. The importance of this decision in relation to occupants other than demoted tenants is demonstrated by the following passages:

- 'if domestic law justifies an outright order for possession, the effect of article 8 may, albeit in exceptional cases, justify (in ascending order of effect) granting an extended period for possession, suspending the order for possession on the happening of an event, or even refusing an order altogether' (para 62).
- 'the conclusion that the court must have the ability to assess the article 8 proportionality of making a possession order in respect of a person's home may require certain statutory and procedural provisions to be revisited', for example, HA 1980 s89 and some of the provisions of Civil Procedure Rule 55, 'which appear to mandate a summary procedure in some types of possession claim' (para 63).
- The submissions 'that proportionality is more likely to be a relevant issue "in respect of occupants who are vulnerable as a result of mental illness, physical or learning disability, poor health or frailty", and that "the issue may also require the local authority to explain why they are not securing alternative accommodation in such cases"' seemed to be 'well made' (para 64).

An important issue is the extent to which county courts should hear and determine questions of fact arising in such possession claims. Lord Neuberger said:

- 'once it is accepted that it is open to a demoted tenant to seek judicial review of a landlord's decision to bring and continue possession proceedings, then it inevitably follows that, as a generality, it is open to a tenant to challenge that decision on the ground that it would be disproportionate and therefore contrary to article 8 ... [ECtHR] jurisprudence requires the court considering such a challenge to have the power to make its own assessment of any relevant facts which are in dispute' (para 73).
- 'Where it is required in order to give effect to an occupier's article 8 convention rights, the court's powers of review can, in an appropriate case, extend to reconsidering for itself the facts found by a local authority, or indeed to considering facts which have arisen since the issue of proceedings, by hearing evidence and forming its own view' (para 74).
- 'a county court judge who is invited to make an order for possession against a demoted tenant pursuant to section 143D(2) can consider whether it is proportionate to make the order sought, and can investigate and determine any issues of fact relevant for the purpose of that exercise' (para 104).

In relation to demoted tenants, Lord Neuberger stated that: 'if the procedure laid down in section 143E or 143F has not been lawfully complied with, either because the express requirements of that section have not been observed or because the rules of natural justice have been infringed, the tenant should be able to raise that as a defence to a possession claim under section 143D(2)' (para 77). '[A]n occupier who is the defendant in possession proceedings in the county court and who claims that it would be incompatible with his article 8 convention rights for him to be put out of his home must be able to rely on those rights in defending those proceedings' (para 78). Accordingly, ' ... section 143D(2) should be read as allowing the court to exercise the powers which are necessary to consider and, where appropriate, to give effect to, any article 8 defence which the defendant raises in the possession proceedings' (para 79).

The Supreme Court disapproved part of the reasoning of the Court of Appeal in *Manchester City Council v Cochrane* [1998] EWCA Civ 1967; [1999] 1 WLR 809, that an introductory tenant could not raise a defence based on the contentions that:

- there had been no breaches of the tenancy agreement;
- the relevant regulations had not been complied with; and
- there had been a failure to comply with the

rules of natural justice in the conduct of the review by the panel (para 82).

In such circumstances, 'article 8 would require the court to be able to consider the facts, as well as proportionality, for itself' (para 83).

However, the Supreme Court dismissed Mr Pinnock's appeal. It noted that: 'The history of crime, nuisance and harassment on the part of those living at the property in the period leading up to the demotion order … was extraordinary in its extent and persistence' (para 126). In the light of events since then, many of which were not disputed, it was proportionate to make a possession order. See also page 31 of this issue.

SECURE TENANCIES

Right to buy

■ Haringey LBC v Hines

[2010] EWCA Civ 1111, 20 October 2010

Ms Hines was the secure tenant of a flat in Tottenham, which she rented from Haringey. She was also employed by Haringey. In December 2001, she sought to exercise her statutory 'right to buy'. Haringey admitted her entitlement. In January 2002, her partner bought a house in Harlow. Shortly afterwards she informed Haringey's payroll department that she was going on maternity leave and that she had recently moved to her partner's address in Harlow. Her younger son was born in March 2002. Her home address was recorded on the birth certificate as being in Harlow. She also changed her GP to one in Harlow. However, in July 2002 she applied for and was granted HB for the flat in Tottenham. According to Department for Work and Pensions records, she moved back to the flat in July 2002.

In October 2002, Haringey granted her a long lease of the flat. The market value was £80,000, but Ms Hines bought it for £42,000, reflecting a discount of £38,000. In November 2002, she wrote seeking to extend her maternity leave, giving her address as the house in Harlow. In late 2003, the relationship with her partner broke down and she moved back to the flat. In 2008, Harlow Council prosecuted her for HB fraud. She pleaded guilty. When Haringey learnt about this, the council formed the view that Ms Hines may not have been in occupation of the flat in Tottenham as her 'only or principal home' in October 2002 and that she had not been entitled to the grant of the lease under the 'right to buy' provisions. It sought rescission of the lease, a declaration that it was void and damages for fraudulent misrepresentation.

Ms Hines defended the claim, asserting that in October 2002 the flat remained her 'only or principal home'. HHJ Yelton disbelieved her evidence, describing her as 'deeply dishonest' (para 22). However, he rejected both Haringey's claim that the grant of the lease was ultra vires and void and that it was entitled to rescission. He did award damages for deceitful misrepresentation in the sum of £38,000 (the amount of the discount). Ms Hines appealed.

The Court of Appeal allowed Ms Hines's appeal. Counsel for Haringey had never put the council's case on deceit to Ms Hines in cross-examination. It was in principle unfair for Haringey to expect the judge to make a finding that Ms Hines had deceived the council in the particular way it alleged without putting the alleged deceit to her expressly in cross-examination and giving her the opportunity to answer the allegation. It is a basic principle of fairness that if a party is being accused of fraud, and is then called as a witness, the particular fraud alleged should be put specifically to that party so that s/he may answer the allegation. There was no justification for the judge's finding of fraud against Ms Hines or for the award of damages that he made against her.

PRIVATE SECTOR

Tenants of mortgagors

■ Bank of Scotland v Ashraf

Romford County Court, 5 October 2010

Mr Ashraf had a mortgage with the Bank of Scotland. In April 2009, he granted an assured shorthold tenancy to Mr Nkomo. Mr Nkomo became a statutory monthly tenant in April 2010. As regards the bank, Mr Nkomo was an unauthorised tenant. Mr Ashraf was in arrears with his mortgage. The Bank of Scotland obtained a possession order, and then a warrant for possession.

Mr Nkomo was unaware of the possession proceedings and first became aware of his possible eviction in mid-September 2010. He immediately offered to make payments to the Bank of Scotland, but his offer was refused. His application to suspend the warrant was heard the day before he was due to be evicted. Mr Ashraf had disappeared with both Mr Nkomo's deposit and his most recent rent payment. In view of the fact that the Dwelling Houses (Execution of Possession Orders by Mortgagees) Regulations 2010 SI No 1809 only came into force on 1 October 2010, and that the request for the warrant had been made before that date, the bank had not given Mr Nkomo at least 14 days' notice in the prescribed form of its intention to apply for a warrant for possession. It appears that Mr Nkomo had not asked the bank to give an undertaking in writing not to enforce the order for two months: Mortgage Repossessions (Protection of Tenants etc) Act 2010 s1(4)(b).

Nevertheless, HHJ Platt held that Mr Ashraf was entitled to the protection of section 1. He held that pre-conditions in section 1(4)(a), (b) and (c) were to be read disjunctively. He stayed execution of the warrant for two months on condition that Mr Nkomo paid the equivalent of his contractual rent to the Bank of Scotland, such payments to be credited to Mr Ashraf's mortgage account, with liberty to the bank to reissue the warrant in the event of any default.

Long lessees: service charges

■ Wilson v Lesley Place (RTM) Company Limited

[2010] UKUT 342 (LC), 22 September 2010

Ms Wilson was a long lessee of a flat. The leasehold valuation tribunal (LVT) found that under the terms of her lease she was liable to pay, as service charges, expenditure relating to the formation of a right to manage (RTM) company, including secretarial fees and directors' and officers' insurance. She appealed on the ground that she was not a member of the company.

The Upper Tribunal (Lands Chamber) dismissed the appeal. Ms Wilson had not sought permission to challenge the finding of the LVT that the costs came within the terms of her lease. Accordingly, 'the appeal must necessarily be dismissed' (para 10).

However, obiter, George Bartlett QC, President, stated that the Commonhold and Leasehold Reform Act 2002 s96 does not modify the rights and duties contained in leases, nor does it create new ones. 'The liability of the tenant to the landlord in respect of service charges is to be ascertained purely by reference to the terms of the lease, and the fact that the management functions are exercisable by an RTM company does not affect the construction of the lease under these provisions' (para 13).

[C]osts incurred by an RTM company that are not recoverable under the terms of the leases from which it derives its management functions must be met by the members of the RTM company. If not all the tenants are members of the RTM company this will mean that those who are not members will not contribute to those costs (para 18).

RENT REPAYMENT ORDERS

■ Hammersmith and Fulham LBC v Ahmed

Residential property tribunal, LON/00AN/HMA/2010/0002, 25 June 2010

Mr Ahmed was the freehold owner of a three-storey property. The ground floor was used as a mini-cab office. The remainder of the building was divided into nine bed-sitting rooms. There were shared bathroom and toilet facilities. In December 2009, Hammersmith and Fulham made an order under HA 2004 s20 prohibiting the building's use for residential purposes. Mr Ahmed appealed but the tribunal confirmed the prohibition notice. In March 2010, the council applied for a rent repayment order (HA 2004 s73(5)) on the grounds that the premises had been an unlicensed house in multiple occupation (HMO) for the whole of the preceding 12-month period and during that time it had paid HB totalling £37,407.

After reviewing the statutory framework, the residential property tribunal found that from 4 February 2009 until 10 January 2010 the property was an unlicensed HMO and that Mr Ahmed had committed an offence under HA 2004 s72. It made a rent repayment order in the sum of £37,407.

HOMELESSNESS

Accepting applications

■ R (Khazai) v Birmingham City Council

[2010] EWHC 2576 (Admin), 15 October 2010

On 10 November 2009, the Administrative Court handed down a judgment severely critical of the council's handling of homelessness applications made under HA 1996 Part 7 and, in particular, the non-provision of interim accommodation pending decisions on applications as required by section 188: *R (Kelly) v Birmingham City Council* [2009] EWHC 3240 (Admin). Following that judgment, the council engaged in an internal review of the steps it should take to change its procedures.

In February 2010, the Interim Head of Housing Need distributed an e-mail to staff which began:

Please note with immediate effect all single homeless who are presenting as homeless/roofless and domestic violence victims requiring refuge must be referred to the appropriate funded support service. We should not be completing a homeless application (para 25).

That instruction was not fully and expressly retracted until July 2010, by which time further claims for judicial review had been issued by claimants frustrated by the absence of responses to their homelessness applications. The claimants' solicitors made an application under the Freedom of Information Act 2000 for disclosure of the procedure documents issued to frontline staff. On disclosure, these documents appeared to indicate that the council had adopted a new practice of making all decisions under Part 7 on the day of application (while applicants remained in council offices) in order to minimise the use of interim accommodation.

Four claims were listed for determination, although in all cases the claimants' circumstances had changed or they had been accommodated. Foskett J granted declaratory relief in three of the cases. He held that:

■ the e-mail instruction had been unlawful and actions taken as a result of it had been unlawful as the council had accepted on the issue of the judicial review claims;

■ the officer responsible had not been guilty of misfeasance in public office. The instruction was more 'the product of oversight and ill-considered drafting than anything more sinister' (para 43);

■ a blanket 'same day' policy, which required a decision on the homelessness application and, in consequence, the interim accommodation issue all in one day would be unlawful. On a true construction of the council's documents, they did not support the contention that a 'same day' policy had actually been adopted by the council across the board, 'though one can see, if only through the decisions actually made … that there appears to be an internal ethos of endeavouring to jump as many hurdles as quickly as possible in dealing with a "homeless on the day" applicant' (para 67).

Foskett J suggested that the council undertakes a thorough review of the procedures adopted in homelessness cases 'with the benefit of high level legal advice' (para 68).

Disabled applicants

■ Pieretti v Enfield LBC

[2010] EWCA Civ 1104, 12 October 2010

The claimants were a husband and wife. On their eviction from private rented accommodation, for reasons related to arrears of rent, they both applied to Enfield for assistance under the homelessness provisions of HA 1996 Part 7. Their GP supplied the council with a medical report on each of them indicating that both had disabilities. Enfield decided that they had become homeless intentionally: section 191. On appeal against that decision, the claimants asserted that the council had failed to have regard to its duty under the Disability Discrimination Act 1995 s49A(1)(d), which provides that:

(1) Every public authority shall in carrying out its functions have due regard to … (d) the need to take steps to take account of disabled persons' disabilities …

HHJ Mitchell dismissed their appeal.

The Court of Appeal allowed a second appeal. It rejected the council's contention that section 49A(1) had no application to its duties of inquiry either in respect of initial decisions (HA 1996 s184) or decisions on review (HA 1996 s202). It held that the duty applies not only at the level of general policy formulation but also in the determination of individual cases. The duty applied when dealing with homelessness functions under HA 1996 Part 7 just as much as to any other council functions. The reviewing officer had failed to take the duty into account, notwithstanding its relevance to the question of whether or not, given their disabilities, the claimants' acts or omissions had been 'deliberate' or whether or not they had, in good faith, been ignorant of material facts: HA 1996 s191(2).

Suitable accommodation

■ Watson v Wandsworth LBC

B5/09/2427, 12 October 2010

The council accepted that it owed the claimant the main housing duty under the statutory provisions relating to homelessness: HA 1996 s193. It made her an offer of accommodation in the Roehampton part of its area. The claimant rejected the offer as unsuitable because she feared violence from a previous attacker or his associates living in Roehampton. She said that she had not previously identified that part of the council's district as one where she might be at risk because she had not realised that it lay within the council's boundaries. A reviewing officer decided that there was no evidence to substantiate her fears and that the offer was 'suitable': section 193(7). On an appeal, a recorder held that the reviewing officer had failed to take sufficient account of the claimant's vulnerability and mental health issues as raised in a letter written on her behalf.

The Court of Appeal allowed an unopposed second appeal by the council. The recorder had set out the correct approach in law to a statutory appeal but had been wrong then, in effect, to substitute her own view of the

matter for the decision of the council. It had made no error of law. The letter she had relied on had not related to the issue of the suitability but rather, if relevant at all, to the issue of priority need which had already been decided in the claimant's favour.

HOUSING AND CHILDREN

■ R (SO) v Barking and Dagenham LBC
[2010] EWCA Civ 1101, 12 October 2010
The claimant entered the UK as an unaccompanied asylum-seeker. He was accommodated by the council as a child in need under its duties under Children Act (CA) 1989 s20 from the time when he first claimed asylum until his alleged 18th birthday on 6 July 2008. In 2009, the council gave notice that it had decided to withdraw its support on the basis that the National Support Service (NASS) would accommodate him.

On a judicial review of that decision, Calvert-Smith J held that a local authority derives no power to provide accommodation from CA s23C(4)(c), whether to a former relevant child asylum-seeker or to any other person. He further held that, even if it did, the local authority was entitled to conclude that the former relevant child asylum-seeker would be likely to receive assistance from the NASS, at least until the result of any application for such assistance was known, and thus that his welfare did not require the provision of accommodation by the local authority (see [2010] EWHC 634 (Admin)).

The Court of Appeal allowed the claimant's appeal on both points. The CA s23C(4) duty owed to a former relevant child encompassed the provision of accommodation and the council could not rely on the fact that if it did not house the claimant, NASS would have to do so, as releasing it from that duty. See also page 15 of this issue.

■ R (A) v Lambeth LBC
[2010] EWHC 2439 (Admin), 7 October 2010
In the course of judicial review proceedings challenging an earlier assessment, the council produced a new pathway plan for a young man to whom it owed duties under the CA. The new plan was criticised as inadequate in respect of provision made for accommodation. Allowing the claim, Kenneth Parker J said that the new document was unlawful because it did:

… no more than state the present position of the claimant so far as accommodation is concerned. It does not amount to a detailed operational plan dealing with the claimant's accommodation needs. It does not specify where it is considered that it would be safe for him to live … It does not consider whether, for example, he can live in supported accommodation and whether this would be in the public or private sector … [It]… does not analyse with sufficient precision what the claimant's needs currently are and what they are likely to be as regards accommodation and how and by whom those needs will be dealt with (para 7).
See also page 15 of this issue.

■ R (GD) v Redbridge LBC
[2010] EWHC 2611 (Admin), 21 September 2010
Following a violent incident in December 2009, the claimant left the home of her father and step-mother and went to stay temporarily with an aunt. She applied to the council for assistance under CA s20. The council took the view that reconciliation with her father was possible and that, with mediation, she could return home. It therefore decided that a section 20 duty was not owed.

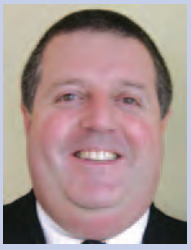
Underhill J refused permission to bring a claim for judicial review of that decision. He held that it was not arguable, on the facts, that the council's decision had been irrational or could otherwise be impugned applying normal principles of administrative law.

HOUSING AND COMMUNITY CARE

■ R (WG) v Local Authority 'A'
[2010] EWHC 2608 (Admin), 24 September 2010
The claimant applied to the council for assistance with accommodation. She had clear medical needs but declined to engage with any process of assessment offered by the council. She had failed similarly to engage with an assessment of a homelessness application which had culminated in a hearing in the Court of Appeal (see [2009] EWCA Civ 192). She sought judicial review to compel the council to make an assessment of her community care needs.

Cranston J extended an interim injunction requiring the council to supply accommodation for a further three months so that a community care assessment could be completed. The fact that an applicant was unco-operative or unwilling to engage was itself no reason for non-provision of community care services (see *R (J) v Caerphilly CBC* [2005] EWHC 586 (Admin)).

1 Available at: www.communities.gov.uk/publications/housing/srlettergshousing.
2 Available at: www.communities.gov.uk/publications/housing/socialhousingregulation.
3 Available at: www.communities.gov.uk/news/housing/1743507.
4 See: www.communities.gov.uk/corporate/foi/disclosure-log/disclosurelog2010/inheritedcouncilhousing/.
5 Available at: www.communities.gov.uk/news/housing/1751438.
6 Available at: www.communities.gov.uk/news/housing/1744170.
7 Available at: www.communities.gov.uk/news/newsroom/1737671.
8 Available at: www.communities.gov.uk/publications/planningandbuilding/implementinghomesresponses.

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