# Recent developments in housing law

Nic Madge and Jan Luba QC 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

### Allocation and management of social housing and homelessness assistance

In November 2010, the coalition government published its proposals for radical reform of social housing in a consultation paper to which responses are sought by 17 January 2011: *Local decisions: a fairer future for social housing* (Communities and Local Government (CLG), November 2010).[1] The proposals that emerge from the consultation will be included in the Localism Bill, which was introduced in the UK Parliament on 13 December 2010.

The consultation paper proposes:

- new 'affordable rent' housing association tenancies (on 9 December 2010, the housing minister, Grant Shapps MP, made a written statement outlining the key features of the new tenancy);[2]
- new 'flexible' council housing tenancies;
- modified secure tenancies for new council tenants (with fewer statutory rights than those enjoyed by current secure tenants);
- maintaining current arrangements for existing tenants of social housing;
- changes to social housing allocation law (Housing Act (HA) 1996 Part 6) to take non-priority transfers out of the allocation scheme and reintroduce locally set restrictions;
- changes to homelessness law (HA 1996 Part 7) to provide that the main housing duty will normally be fulfilled by an offer of a private rented sector tenancy;
- a new statutory duty for each social landlord to have a published tenancy 'strategy';
- new arrangements for cross-landlord mobility in the social housing stock through an enhanced mechanism for mutual exchanges;
- measures to tackle empty housing;
- reform of overcrowding law (HA 1985 Part X); and
- reform of social housing regulation, including revision of the April 2010 Tenancy Standard. The new regulator will be the Homes and Communities Agency (HCA) which replaces the Tenant Services Authority (TSA). The TSA has written to all social housing providers to notify them that it anticipates that the main changes to social housing regulation will come into effect from 1 April 2012. Until then, the TSA will work to ensure a smooth transfer of functions and people to the new regulator but will meanwhile retain and exercise its regulatory functions.[3] See also page 15 of this issue.

### Central government housing policy

In November 2010, the coalition government published *Business plan 2011–2015. Department for Communities and Local Government* (CLG, November 2010).[4] It states that an objective for the department is to meet people's housing aspirations, including providing local authorities with strong and transparent incentives to facilitate housing growth, as well as making the provision of social housing more flexible. The plan spells out the timetable for the announcement and implementation of policy changes designed to deliver the objective.

The government has also published the latest research on identifying 'housing need': *Estimating housing need* (CLG, November 2010).[5] The research, by Professor Glen Bramley and others, assesses and forecasts housing need in England in terms of a range of housing outcomes, including overcrowding, homelessness and unsuitable accommodation.

### Private renting

On 8 December 2010, the coalition government introduced the Energy Bill in the UK Parliament. The bill addresses energy efficiency (or the lack of it) in private rented housing. The residential private rented sector has the largest proportion of lowest-rated (EPC band G) properties of all tenures (6.2 per cent compared with 3.4 per cent in owner-occupied properties). The bill, if passed, would give ministers power to make regulations imposing energy efficiency obligations on private landlords and tenants. A factsheet has been published describing the proposals: *Energy Bill: private rented sector* (Department of Energy and Climate Change, December 2010).[6]

### Homelessness

The latest national statistics on the handling of homelessness applications by English local housing authorities were published in December 2010: *Statutory homelessness: September quarter 2010 England* (CLG, December 2010).[7] They indicate that 610 more households are in bed and breakfast accommodation than at the same time last year. The number of homelessness applicants accepted as owed the main housing duty has increased by 14 per cent compared with the same period last year.

### Human rights and possession proceedings

The National Housing Federation (NHF) has published guidance for its member housing associations on the implications of *Manchester City Council v Pinnock* [2010] UKSC 45 (see December 2010 *Legal Action* 31): *Housing associations and the human rights convention: the position after* Pinnock (NHF, November 2010).[8] The guidance states that it is 'important for landlords to be able to demonstrate why they are seeking possession and that it is a proportionate and appropriate response to the situation. This will mean clear records regarding the conduct of the tenancy and the landlord's decision-taking process. Inevitably the process of seeking possession will become more bureaucratic and demanding, and where possession is actively challenged by the tenant, there will be the additional costs and delays always associated with a contested court hearing'.

### Possession claims

In November 2010, the latest statistics on county court possession claims were published: *Statistics on mortgage and landlord possession actions in the county courts in England and Wales – third quarter 2010* (Ministry of Justice (MoJ), November 2010).[9]

#### *Mortgage possession claims*

The latest statistics show that over 3,000 possession orders are being made every month. Figures published by the Council of Mortgage Lenders indicate that 8,900 properties were actually taken into possession by its members in the third quarter of 2010.[10] Statistics published by the Mortgage Rescue Scheme show that the scheme has helped only 1,456 households to complete the full rescue process since the

scheme's launch between April 2009 and September 2010: *Mortgage Rescue Scheme monitoring statistics – September quarter 2010* (CLG, November 2010).[11]

### *Landlord possession claims*

The latest statistics show that the number of possession claims brought against tenants is increasing. Some 33,960 landlord possession claims were issued in the third quarter of 2010 (July to September) which, on a seasonally adjusted basis, was one per cent higher than in the third quarter of 2009 and two per cent higher than in the second quarter of 2010.

### *Representation on possession days*

The Legal Services Commission (LSC) has granted new contracts for the Housing Possession Court Duty Solicitor Schemes that it funds (separate schemes are funded by CLG). The new contracts started on 15 November 2010 with some awards being conditional on the outcome of appeals. On this basis, some contract schedules will only last two and a half months, until the end of January 2011: *2010 Standard Civil Contract: update on contract documentation* (LSC, 12 November 2010).[12]

## Legal advice and representation in housing cases

On 15 November 2010, the MoJ issued a consultation paper on the future of legal aid: *Proposals for the reform of legal aid in England and Wales*.[13] Responses are sought by 14 February 2011.

Chapter 4 indicates which housing cases are proposed to remain within or be taken outside the scope of legal aid. Even if most housing cases remain within scope, the viability of specialist housing law providers to assist with advice or representation may be restricted by proposed changes to eligibility for legal aid and by the proposals in chapter 7 to reduce remuneration for advisers, solicitors and counsel in civil legal aid cases by £72m from 2011.

The alternative methods of funding housing law cases beyond legal aid (for example, through conditional fee agreements) will be heavily affected by proposals put forward by the government on implementing Lord Justice Jackson's main recommendations on costs in civil cases: *Proposals for reform of civil litigation funding and costs in England and Wales* (MoJ, November 2010).[14] Those proposals are the subject of a separate consultation which also closes on 14 February 2011.

Meanwhile, since 15 November 2010 the vast majority of legal aid housing work has been conducted by those firms/agencies that have been awarded a 2010 Civil Contract by the LSC to carry out social welfare law work and which have been authorised to commence work under their contract. The full terms of the 2010 contracts and the specifications which accompany them are in the new *LSC Manual* at Volume 2 (Civil).[15]

The only other way to provide legal aid services in housing is through a firm/agency that has a 2007 Unified Contract for housing with family. The LSC has announced that those contracts will be further extended to 30 November 2011 for those providers with the family and housing category which do not hold the social welfare law category under the 2010 contract: *2010 Standard Civil Contract: update on contract documentation* (LSC, 12 November 2010).[16]

## Fraud in social housing

In October 2010, the Audit Commission, in its latest report on measures to protect public funds, called on social landlords to do more to address three forms of social housing fraud: unauthorised sub-letting; using false information in applying for social housing; and wrongful tenancy 'succession': *Protecting the public purse 2010* (Audit Commission, October 2010).[17] It outlines successful initiatives by several social landlords which have brought scores of social housing properties back into the stock available to meet real housing need.

## Using social housing for business purposes

On 1 November 2010, the housing minister asked social landlords to take a more positive approach to reasonable requests from social housing tenants for permission to use their homes as offices or as bases for their businesses: CLG news release, 1 November 2010.[18]

The Chartered Institute of Housing (CIH) has recently published the guide *Running a business from home*, which is directed at social landlords and tenants (CIH, November 2010).[19]

## Reviewing homelessness decisions

Since 1 December 2010, homeless persons in Northern Ireland have enjoyed statutory rights to review adverse homelessness decisions made by the Northern Ireland Housing Executive. The new rights were introduced by Housing (Amendment) Act (Northern Ireland) 2010 s5. The Housing Rights Service has published *A guide to challenging homelessness decisions to help advisers make best use of the new rights*.[20]

## Houses in multiple occupation

On 4 November 2010, the government wrote to all local authorities confirming that a replacement for Circular 05/10, which relates to planning and houses in multiple occupation (HMOs), and a replacement Appendix D of Circular 09/95, relating to article 4 directions, have been published.[21]

Meanwhile, the organisation Local Government Regulation has published its latest round up (October 2010) of prosecutions of private landlords in respect of unlawful management of HMOs.[22]

Housing provided for students will not count as an HMO if the landlord is a designated educational establishment. On 25 November 2010, a new list of such establishments took effect: the Houses in Multiple Occupation (Specified Educational Establishments) (England) (No 2) Regulations 2010 SI No 2616.[23] On the same day a new code of practice was approved for the management of such student housing: the Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 SI No 2615.[24]

## Housing tribunals

New arrangements took effect on 29 November 2010 in the Upper Tribunal (Lands Chamber). New fee levels were introduced by the Upper Tribunal (Lands Chamber) Fees (Amendment) Order 2010 SI No 2601. New procedure rules were made by the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 SI No 2600. The changes all took effect at the same time as redesignation of the First-tier and Upper Tribunal Chambers by the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 SI No 2655.

## Housing and anti-social behaviour

The Department for Education (DfE) has published the latest research on monitoring and evaluation of the family intervention projects directed to supporting families with a history of anti-social behaviour in their homes: *Monitoring and evaluation of family interventions (information on families supported to March 2010)* (DfE, November 2010).[25]

## Housing and domestic violence

The coalition government has announced that it intends to pilot domestic violence protection orders, which will provide for the exclusion of alleged perpetrators of domestic violence from their homes, in Wiltshire, West Mercia and Manchester for 12 months from June 2011: *Call to end violence against women and girls* (Home Office, November 2010).[26]

### Evicting squatters

The coalition government has published an online guide for homeowners: *Advice on dealing with squatters in your home* (MoJ/CLG, November 2010).[27]

## HUMAN RIGHTS

### Article 6: delay

#### ■ Matveyev v Russia

*App No 10418/04,*
*25 November 2010*

Mr Matveyev and his family lived in a wooden house owned by the municipality on the riverside in Sedkyrkeshch. From 1995, he repeatedly informed the local authorities that the river was overflowing and that the house was at risk of destruction. In 1998, the house was flooded, and he and his family moved to his parents' flat. Later that year, he lodged a claim against the Syktyvkar town administration seeking to be provided with a flat. By 2005, after over 25 hearings had been listed in both lower and appeal courts, his claim had not been determined. He complained to the European Court of Human Rights (ECtHR) that the length of the proceedings had been incompatible with the 'reasonable time' requirement as provided in article 6(1).

The ECtHR noted that for the duration of the dispute, Mr Matveyev remained deprived of his own home. The very nature of the dispute called for a particularly expeditious treatment of the claim. The court concluded that the 'reasonable time' requirement had been breached and that there was accordingly a violation of article 6(1). The court ordered that the government secure that Mr Matveyev be placed on the waiting list for housing subsidy and awarded € 8,600 for non-pecuniary damage.

### Article 8: possession claims and reasons

#### ■ Kryvitska and Kryvitskyy v Ukraine

*App No 30856/03,*
*2 December 2010*

Mr Kryvitskyy was Ms Kryvitska's son. In 1992, Mrs Y B, the owner of a flat, officially registered Ms Kryvitska as a permanent tenant and in March 1993 signed it off to her in a will. In 1993, Mr Kryvitskyy, who was then a minor, was also officially registered as a permanent resident in the flat as his mother's family member. They lived in the flat and took care of the charges and maintenance fees. Mrs Y B died in 1998. In 2001, a panel of experts conducted an assessment of Mrs Y B's mental health and found that in March 1993, she had suffered from organic psychiatric disorders giving rise to moderate intellectual and memory impairment and paranoia. Her will was later set aside. In 2002, the District Tax Administration registered the state's title to the flat as intestate estate. The Tax Administration then instituted court proceedings against Mr Kryvitskyy and Ms Kryvitska, seeking:

- to annul their tenancy registration as lacking any legal basis on account of the impaired judgment of the former flat owner when authorising it; and
- to evict them.

Eventually, the court made a possession order and they were evicted.

Mr Kryvitskyy and Ms Kryvitska claimed that there was a breach of article 8. The ECtHR stated that the notion of a 'home' is not limited to premises which are lawfully occupied or which have been lawfully established. Whether or not a particular habitation constitutes a 'home' which attracts the protection of article 8(1) depends on the factual circumstances, namely, the existence of sufficient and continuous links with a specific place. State interference constitutes a violation of article 8 unless it pursues one of the legitimate aims enumerated in article 8(2), is 'in accordance with the law', and can be regarded as 'necessary in a democratic society'. The expression 'in accordance with the law' does not merely require that the impugned measure should have a basis in domestic law, but also refers to the quality of the law in question. In particular, the law must be sufficiently clear in its terms and afford a measure of legal protection against arbitrary application.

It is the ECtHR's function to review the reasoning adduced by domestic judicial authorities from the point of view of the European Convention on Human Rights ('the convention'). Where a resulting judicial decision lacks reasoning or an evidentiary basis, ensuing interference with a convention right may become unforeseeable and consequently fall short of the lawfulness requirement. Given that eviction is a serious interference with an individual's right to respect for his/her home, the court attaches particular weight to the procedural safeguards afforded to that individual in the course of the decision-making process. In particular, even where the lawful right to occupation of the premises has come to an end, an individual should in principle be able to have the proportionality of the measure determined by an independent tribunal in the light of the relevant principles of article 8. Lack of reasoning in a judicial decision about the grounds of application of a statute may, even where the formal requirements have been complied with, be taken into account among other factors in determining whether the measure complained of struck a fair balance.

In this case, the authorities' failure to provide adequate reasons for dismissing Mr Kryvitskyy and Ms Kryvitska's arguments regarding applicability of the law concerning eviction of arbitrary occupants to their case or to assess the proportionality of their eviction, meant that they were deprived of adequate procedural safeguards in the decision-making process concerning their right to respect for their home. There was a violation of article 8. The court awarded € 6,000 each in respect of non-pecuniary damage.

## SOCIAL SECTOR

### Possession claims

#### ■ Brent LBC v Corcoran

*[2010] EWCA Civ 774,*
*8 July 2010,*
*September 2010 Legal Action 38*[28]

The Supreme Court has refused Ms Corcoran permission to appeal.

#### ■ Mexfield Housing Co-operative Ltd v Berrisford

*[2010] EWCA Civ 811,*
*15 July 2010,*
*September 2010 Legal Action 37*[29]

The Supreme Court has given Ms Berrisford permission to appeal.

## PRIVATE SECTOR

### Tenancy deposits

#### ■ Vision Enterprises Ltd (t/a Universal Estates) v Tiensia

*[2010] EWCA Civ 1224,*
*11 November 2010*

Universal Estates granted Ms Tiensia an assured shorthold tenancy. The deposit of £2,400 was paid in instalments. Later, the landlord sought possession relying on HA 1988 Sch 2 Grounds 8, 10 and 11. Ms Tiensia defended the possession claim and counterclaimed for a payment under HA 2004 s214(4). The landlord subsequently registered the deposit with Tenancy Deposit Solutions Ltd, an online, insurance-based, tenancy deposit scheme. The certificate was faxed to Ms Tiensia on 3 November 2008. The terms of the scheme (as set out in the Information for tenants leaflet) stated: 'Within 14 days of receiving the deposit from you, your landlord/agent must protect the deposit with the scheme as well as provide to you details of how your deposit is being protected and what to do if there is a dispute about the repayment of your deposit at the end of the tenancy agreement.'

On an application for summary judgment on the counterclaim, a district judge accepted

that the 'initial requirements' of the scheme itself (as well as section 213) required the landlord to protect the deposit and provide the required details within 14 days and that, therefore, this requirement could not be satisfied once the 14 days had passed. He ordered the landlord to pay Ms Tiensia £7,200. HHJ Ellis allowed an appeal, holding that the sanctions in section 214(3) and (4) did not apply where the landlord had complied with the requirements of the scheme, and provided the information to the tenant by the date of the hearing.

The Court of Appeal, by a majority, dismissed Ms Tiensia's further appeal. Rimer LJ, with whom Thorpe LJ agreed, stated that the pre-condition of a tenant's application to the court under section 214 was not a failure by the landlord to comply with the 'initial requirements' or the notification thereof to the tenant within the 14-day period specified in section 213. It was the failure to comply with either of those obligations at all. So, if a landlord is late in complying with the dual section 213 obligations, but does so before any section 214 proceedings are brought by the tenant, the tenant has no cause of action under section 214.

Such an interpretation was not only supported by the language of the Act, but was also consistent with the purpose of the legislation, which was to achieve the due protection of deposits paid by tenants, ideally within the 14-day period but, if not, then later. It could not 'be its purpose to punish landlords who may for example, for innocent reasons, be just a day late in securing such protection' (para 40). Furthermore, the landlord has until the hearing of the tenant's section 214 application to comply with the section 213 'initial requirements' and notification requirements. If there is compliance before the hearing, 'it must follow that the tenant's section 214 application will fail although no-one suggested that in such a case the tenant would not ordinarily be entitled to recover from the landlord the costs of his claim' (para 41). Sedley LJ dissented. (The same conclusion was reached in *Honeysuckle Properties v Fletcher* which was heard simultaneously.)

### Tenants of mortgagors

#### ■ GMAC RFC Ltd v Jones

*Lambeth County Court, 15 November 2010*[30]

Ms Jones obtained a mortgage from GMAC. As a result of arrears, GMAC obtained a possession order against her. In June 2009, after the grant of the possession order, Ms Jones granted a 12-month, fixed-term assured shorthold tenancy to Mr Elegishu without obtaining GMAC's consent. The fixed term expired and he continued in occupation, paying rent of £900 a month. In October 2010, notices were sent to the property addressed to Ms Jones and 'any other occupiers' by GMAC and another mortgagee entitled to possession. Following requests from Mr Elegishu's solicitors, the other mortgagee undertook not to take any further action for two months from 21 October 2010. GMAC refused to enter into a similar undertaking. Mr Elegishu applied to be joined as a second defendant and for the execution of the warrant to be postponed for a two-month period, under Mortgage Repossessions (Protection of Tenants etc) Act 2010 s1(4).

GMAC opposed the application, submitting that:

- the tenancy was not valid;
- possession had already been postponed because the possession order had been obtained a considerable time earlier and had not been executed;
- the tenant was in default in that, after learning of the possession orders, he had set aside his rent rather than pay it to Ms Jones; and
- there was very little evidence about what steps the tenant had taken to find alternative accommodation.

District Judge Zimmels allowed both applications. He held that the two-month period started to run on the date of the hearing. He was satisfied that the tenancy agreement was valid and that it was not binding on the mortgagee. Except for the recent setting aside of the rent, the tenant was not in default of his tenancy obligations. As he was at risk of losing his home, it was reasonable for him not to have remedied his breach of failing to pay rent. The tenant might have a claim against his landlord. The judge granted relief and ordered that the warrant should not be executed until 15 January 2011. He ordered GMAC to pay the tenant's costs of the application.

### Unlawful eviction

#### ■ R v McIntosh

*Oxford Crown Court, 29 October 2010*

Mr Hutchinson paid rent to his landlord, Mr McIntosh, in cash. His circumstances changed and he applied for housing benefit (HB). The landlord refused to provide proof that he was living at the property for HB purposes and asked him to leave. After the council's tenancy relations officer wrote a letter explaining Mr Hutchinson's rights, Mr McIntosh served an invalid notice seeking possession. He attended the property on 27 March 2010, became aggressive and said that the locks would be changed. Following the eviction, Mr Hutchinson slept in an abandoned car. The defendant pleaded guilty to one offence of unlawful eviction without a court order. He was sentenced to three months' imprisonment.

## HOMELESSNESS

### Whether homeless

#### ■ Hanton-Rhouila v Westminster City Council

*[2010] EWCA Civ 1334, 24 November 2010*

The claimant was staying with a relative, who asked her to leave by the end of April 2009. She approached the council before she became threatened with homelessness (HA 1996 s175(4)) and was placed on the council's Home Finders Payment Scheme ('the scheme') under which the council makes incentive payments to landlords to offer assured shorthold tenancies to families. Later, at the end of April 2009, she was placed in interim housing accommodation pending a decision on her application for assistance under the homelessness provisions of HA 1996 Part 7: s188.

Before a decision on that application had been reached, she was offered and accepted a 12-month, fixed-term tenancy arranged with a private landlord under the scheme. The council then determined her homelessness application and decided that she was no longer homeless and it owed no duty. She sought a review contending that she had not understood that taking the tenancy under the scheme would prejudice her homelessness application. The review upheld the finding that she was not homeless and HHJ Levy QC dismissed an appeal from that decision.

The Court of Appeal dismissed a second appeal. The claimant was plainly no longer homeless after she had taken the tenancy and the reviewing officer had been entitled to reject the suggestion that she had misunderstood the basis on which the private tenancy had been offered.

#### ■ Nagi v Birmingham City Council

*[2010] EWCA Civ 1391, 27 October 2010*

The applicant sought homelessness assistance on the basis that his wife's medical condition meant that it was no longer reasonable to continue to occupy their accommodation and that he was therefore 'homeless': HA 1996 s175(3). She had epilepsy and a mobility problem because of a bad leg and back. The accommodation had to be accessed by a steep slope and had internal stairs. The council took advice from Dr Keen of NowMedical who indicated that the accommodation was not unsuitable. A

reviewing officer decided that the applicant was not homeless. HHJ Robert Owen QC dismissed an appeal.

Arden LJ refused permission to bring a second appeal as the case raised no important point of practice or principle. The advice given to the council had not been vitiated by language referring to whether the accommodation was 'suitable' instead of addressing whether it was 'reasonable' to continue to occupy the accommodation.

### Priority need

#### ■ Hussain v Hounslow LBC

*[2010] EW Misc 15 (CC), 1 December 2010*

The applicant sought homelessness assistance on the basis that her medical condition made her vulnerable: HA 1996 s189(1)(c). The council decided that she did not have a priority need and that decision was upheld on review.

Recorder West-Knights QC allowed an appeal. The reviewing officer had not addressed the references in the medical reports to the applicant's potential to suffer dizziness and a consequent risk of falling, which had been relevant considerations in the assessment of whether or not she was vulnerable.

### Performing housing duties

#### ■ Vilvarasa v Harrow LBC

*[2010] EWCA Civ 1278, 16 November 2010*

The council accepted that it owed the claimant the main housing duty under the homelessness provisions of HA 1996 Part 7: s193. It advised him that it would perform the duty by arranging an assured shorthold tenancy. It later contacted him identifying the particular property. The claimant visited the property but rejected the offer on the basis that it was not suitable for his needs. The suitability of the accommodation offered was upheld by the council on a review and HHJ McDowall dismissed an appeal.

The claimant appealed to the Court of Appeal on the basis that the totality of the council's correspondence suggested that the offer made was a 'qualifying offer' of an assured shorthold tenancy designed to release the council from its duty and which the claimant would have been entitled to reject as of right: s193(7B) and (7C).

The Court of Appeal dismissed the appeal. The council had throughout been making the offer under section 193(5) as a method of performing its duty to secure temporary accommodation. Nothing in the wording of the letters undermined that intent.

## HOUSING AND CHILDREN

#### ■ R (AH) v Cornwall Council

*[2010] EWHC 3192 (Admin), 3 December 2010*

The claimant left home aged 17 and moved to a specialist supported accommodation centre for young people for a fixed six-month period. While there, he was assessed by social services and, when his six-month period concluded, he applied to the council for housing assistance as a homeless person. The claimant sought a judicial review contending that the council had wrongly failed to secure accommodation for him under Children Act 1989 s20 or as a person with priority need under HA 1996 Part 7 s189.

HHJ Seys Llewellyn QC (sitting as a deputy High Court judge) granted permission to apply for judicial review but dismissed the claim. The council had not acted unlawfully in dealing with either of the claimant's potential entitlements to accommodation.

## HOUSING AND COMMUNITY CARE

#### ■ R (SL) v Westminster City Council

*[2010] EWHC 3182 (Admin), 15 November 2010*

The claimant asserted that, by reason of his poor mental health, the council was obliged to accommodate him under National Assistance Act 1948 s21 as a person in need of 'care and attention'. The council assessed him as needing NHS treatment and social work support but nothing more.

Burnett J dismissed a claim for judicial review of that decision. He held that to be entitled to assistance, the claimant had to be in need of care and attention where help with such needs was not available otherwise than by the provision of accommodation. The needs for NHS treatment and social work support, as assessed by the council, were not, in themselves, a demonstration of a need for 'care and attention' by provision of accommodation. The assessment by the council's social worker had been made lawfully.

1 Available at: www.communities.gov.uk/publications/housing/socialhousingreform.
2 Available at: www.communities.gov.uk/statements/housing/1792187.
3 See: www.tenantservicesauthority.org/upload/doc/Letter_to_RPs_231110.doc.
4 Available at: www.communities.gov.uk/publications/corporate/businessplan2010.
5 Available at: www.communities.gov.uk/documents/housing/pdf/1776873.pdf.
6 Available at: www.decc.gov.uk/assets/decc/legislation/energybill/1001-energy-bill-2011-brief-private-rented-sector.pdf.
7 Available at: www.communities.gov.uk/publications/corporate/statistics/homelessnessq32010.
8 Available at: www.housing.org.uk/Uploads/File/PolicyBriefings/Pinnock%20briefing%20-%20nsgn2010br18.pdf.
9 Available at: www.justice.gov.uk/mortgage-landlord-possession-stats-q3-10a.pdf.
10 Available at: www.cml.org.uk/cml/media/press/2769.
11 Available at: www.communities.gov.uk/publications/corporate/statistics/mortgagerescuestatisticsq32010.
12 See: www.legalservices.gov.uk/docs/civil_contracting/Update_on_2010_Standard_Civil_Contract_Documentation_12_Nov_2010.pdf.
13 Available at: www.justice.gov.uk/consultations/legal-aid-reform-151110.htm.
14 Available at: www.justice.gov.uk/consultations/jackson-review-151110.htm.
15 See: www.legalservices.gov.uk/civil/lsc_manual.asp.
16 See note 12.
17 Available at: www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/271010protectingthepublicpurse.pdf.
18 Available at: www.communities.gov.uk/news/housing/1756632.
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20 Available at: www.housingrights.org.uk/component/docman/doc_download/210-guide-to-challenging-homelessness-decisions-flyer.html.
21 Available at: www.communities.gov.uk/documents/planningandbuilding/pdf/1760376.pdf.
22 Available at: www.lacors.gov.uk/lacors/ContentDetails.aspx?id=24497.
23 See: www.legislation.gov.uk/uksi/2010/2616/pdfs/uksi_20102616_en.pdf.
24 See: www.legislation.gov.uk/uksi/2010/2615/pdfs/uksi_20102615_en.pdf.
25 Available at: http://publications.education.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DFE-RR044&.
26 Available at: www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/vawg-paper?view=Binary.
27 Available at: www.communities.gov.uk/documents/housing/pdf/1762615.pdf.
28 Chris Johnson, solicitor, Community Law Partnership, Birmingham.
29 Mark Wonnacott, barrister, London.
30 Mike O'Dwyer, solicitor, Philcox Gray, London and Liz Davies, barrister, London.

**Nic Madge is a circuit judge. Jan Luba QC is a barrister at Garden Court Chambers, London. He is also a recorder.** **The authors are grateful to the colleagues at notes 28–30 for transcripts or notes of judgments.**