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

Social housing allocation

The Secretary of State for Communities and Local Government (CLG) has issued new statutory guidance for local housing authorities on social housing allocation, in exercise of her powers under Housing Act (HA) 1996 s169. The guidance is contained in the new Circular 04/2009 *Housing allocations – members of the armed forces* (CLG, 9 April 2009).[1] The circular:

- meets a commitment to issue guidance about the priority to be given in the allocation of social housing to seriously injured service personnel; and
- takes account of amendments to HA 1996 s199 made by Housing and Regeneration Act (H&RA) 2008 s315, which change the application of the local connection test in respect of members of the Armed Forces.

Homelessness

The exemption from the statutory duty to produce a local homelessness strategy contained in Homelessness Act 2002 ss1–4 has been extended. From 13 April 2009, the Local Authorities' Plans and Strategies (Disapplication) (England) (Amendment) Order 2009 SI No 714 has widened the exemption. Now, any English local authority which has a '3 star', '4 star', or 'excellent' rating is exempt.

Although the figures for homelessness applications have yet to show significant increases as a result of repossessions, councils and housing associations are being invited to plan together to respond to the probability of a surge in numbers. Joint help for those facing repossession in the economic downturn from local housing authorities and housing associations is a theme of the latest Homelessness Action Team *HAT update* (Tenant Services Authority (TSA), April 2009).[2] It offers a case study of successful joint-working arrangements between the council and housing associations in one major London borough.

Help for the single homeless (and others not in priority need) who seek immediate shelter is not available in all areas. The report *Emergency accommodation: a survey of provision in areas with no direct access hostel* (Homeless Link, April 2009) sets out the options for those not entitled to accommodation under the provisions of HA 1996 Part 7 (Homelessness).[3] It suggests that one in four local authorities has no emergency accommodation at all for this group of applicants, who therefore have to move out of the area and seek help elsewhere or sleep on the local streets. The report also suggests that a majority of respondents to its survey do not believe that their 'emergency provision' is sufficient to meet the demand from single homeless people in their area.

Help for those facing repossession

Several initiatives designed to avoid further escalation in the numbers of tenants and homeowners losing their homes in the recession have been introduced over recent weeks:

- *Preventing repossession*: the spring 2009 budget contained £20m of additional funding to help with homelessness prevention for occupiers facing repossession as a result of the recession. It has already been distributed to local housing authorities by CLG and follows the distribution of a similarly targeted £3.7m in March 2009. The department has sent every authority a copy of a *Short guide from regional resource teams for local authorities on how to prevent homelessness due to mortgage and landlord repossession* (CLG, April 2009) to assist in directing the additional funds most effectively and in taking local measures to avoid repossessions. The suggestions made in the paper include the possibility of direct payments to reduce or clear arrears where that will help defaulting occupiers keep their homes.
- *Mortgage Rescue Scheme (MRS)*: the spring 2009 budget also contained an announcement that the conditions of qualification for the non-statutory MRS launched in January 2009 (under which a social landlord may buy out the mortgage lender of a vulnerable homeowner) were being broadened, not least to include those in negative equity. Applications for help under the MRS must still be made through a local housing authority's housing advice service. The practice manual issued to every local housing authority has yet to become publicly available but a dedicated webpage contains the scheme's outline.[4]
- *Homeowners Mortgage Support (HMS)*: this new non-statutory scheme is operated by mortgage lenders and was launched by the government on 21 April 2009. The intention is that some homeowners in temporary difficulty with their mortgages can pay as little as 30 per cent of the monthly interest for a period of up to two years (with the unpaid interest being carried forward for repayment, with interest, later). A new leaflet *Guide to Homeowners Mortgage Support* (CLG, April 2009) explains what HMS is, who might be eligible, how it will work and the benefits and risks of taking part.[5] Those applying to lenders for HMS will need to establish that:
  – their income has temporarily dropped by a substantial amount and that they can no longer afford current monthly payments;
  – they are prepared to agree to pay as much as they can afford and at least 30 per cent of the interest due;
  – they will switch to interest-only terms if they have not done so already;
  – their mortgage and any other loans secured against the home do not exceed a fixed limit;
  – their savings are below a fixed threshold;
  – the mortgage or remortgage was concluded before a certain date; and
  – they have been making regular payments (though not necessarily of the full amount due) over the five months before joining the scheme, unless they had agreed a payment holiday with the lender.

  It is for the lender to set and apply the dates, limits and thresholds mentioned. The *Impact assessment of Homeowners Mortgage Support* (CLG, 21 April 2009) contains, in an annex, a full description of the HMS and its eligibility criteria.[6]
- *Help at the county court*: a statement from the Ministry of Justice on 21 April 2009 drew attention to figures published by the Legal Services Commission (LSC) suggesting that 2,800 people a month are receiving help through the LSC-funded housing possession court duty schemes and that 33,700 people used the schemes in 2008.[7]
- *Sale and rent-back*: homeowners in mortgage difficulties who are tempted by arrangements under which they remain in their homes as tenants (of companies to which the home is sold) may believe that they

can claim housing benefit for the rent that they will be liable to pay. The position is clarified in a new Housing Benefit and Council Tax Benefit Circular A5/2009 *Sale and rent back arrangements* (Department for Work and Pensions (DWP), 2009) which appends a leaflet for distribution to such homeowners.[8]

■ *Data on repossession*: the latest official data on mortgage arrears, repossessions, court actions and orders, and the MRS has been brought together on a single webpage.[9]

Housing and anti-social behaviour

Victims of anti-social behaviour now have a new remedy if their landlords (or the landlords of the perpetrators) fail to take action. A victim can now refer such a crime and disorder matter to a ward councillor who must then either:

■ consider the matter and respond to the victim, indicating what (if any) action the councillor proposes to take; or

■ refer the matter to the local crime and disorder committee.

The new provision, known as the 'councillor call for action', is contained in Police and Justice Act 2006 s19. That section was brought into force on 30 April 2009 by the Police and Justice Act 2006 (Commencement No 1) (England) Order 2009 SI No 936.

The Criminal Justice and Immigration Act 2008 s125 was brought into force on 1 April 2009 by the Criminal Justice and Immigration Act 2008 (Commencement No 7) Order 2009 SI No 860. The section extends the list of local authorities in England which may enter into parenting contracts or apply for parenting orders.

Local housing allowance

The *Housing benefit local housing allowance guidance manual* (DWP, April 2009) has been published. It supplements the existing *Housing benefit and council tax benefit guidance manual* in respect of local housing allowance (LHA) claims.[10] The LHA rules have been amended since publication of the manual to remove the £15 excess over the contractual rent that some claimants had been receiving. The changes are explained in the May 2009 issue of *Housing benefit direct* (Issue 89).[11]

The earlier amendment to restrict LHA rates for properties of six or more bedrooms, which came into force on 6 April 2009, is explained in the April 2009 issue of *Housing benefit direct* (Issue 88).

Family intervention tenancies

Guidance on the use of family intervention tenancies (National Housing Federation, April 2009) is a new briefing note containing guidance for housing associations on the use of these new forms of tenancy created by H&RA ss297–298.[12]

Service charges

Financial services compensation scheme (FSCS). Treatment of service charges for residential property (CLG, April 2009) provides an explanation for landlords and tenants, in question and answer format, of how the compensation scheme works if monies accumulated from service charges are lost on the insolvency of the bank or other fund in which they were held.[13]

Gas safety in HMOs

The Houses in Multiple Occupation (Management) (England) Regulations 2009 SI No 724 came into force on 13 April 2009. They amend the definition of 'recognised engineer' for the purpose of responding to a local authority requirement for production within seven days of a gas engineer's safety certificate from the owner or manager of a House in Multiple Occupation (HMO).

Enforcing home information pack requirements

Home information packs: guidance for enforcement officers (CLG, April 2009) contains revised guidance for trading standards officers in local authorities and the Office of Fair Trading (OFT) on enforcement of the home information pack rules.[14]

Equality in housing

The Equality Bill, published in April 2009, contains a new approach to disability discrimination to address the decision in *Lewisham LBC v Malcolm* [2008] UKHL 43.[15] Meanwhile, as the bill begins its parliamentary passage, the Chartered Institute of Housing (CIH) has launched a new practice brief on *Equality, diversity and good relations in housing* (CIH, April 2009) designed to help social landlords tackle equalities issues in housing provision.[16]

Tenants' associations

CLG has commissioned a new study to identify regional and national tenants' organisations – and their strengths, weaknesses and opportunities – so as to enable the government, the TSA and the new National Tenant Voice to make informed decisions about how best to develop and support such organisations. Advisers working with tenants' organisations are invited to contribute information to the study being conducted by IRIS Consulting.[17]

Housing law in Scotland

The Scottish Government has begun a consultation exercise on a draft Housing Bill which will cover the terminology of 'social housing', its regulation and the extent of the right to buy.[18] The deadline to respond to the *Draft Housing [Scotland] Bill: a consultation* is 14 August 2009.

HUMAN RIGHTS

Article 6

■ Gasanova v Russia

App No 23310/04, 30 April 2009

In 1995, Ms Gasanova brought a court action against a housing maintenance service, claiming compensation for damage sustained as a result of poor-quality repairs carried out in her flat. She requested that the works be done again and sought penalties for the delays in carrying out the repairs. Between November 1995 and March 2004, there were 26 hearings of the claim in the Solnechnogorskiy Town Court, five appeal hearings in the Moscow Regional Court and three hearings in the Presidium of the Regional Court. In March 2004, the Regional Court upheld a judgment of the Town Court, given in November 2003, ordering the municipal enterprise (which had taken over responsibility for repairs) to reimburse Ms Gasanova for 'the repair expenses' which she had spent herself and to 'pay her non-pecuniary damage sustained as a result of poor-quality repair works' (para 23). It also ordered the municipal enterprise to replace the sanitary installations in her flat. Ms Gasanova complained that the length of the proceedings was incompatible with the 'reasonable time' requirement laid down in article 6 of the European Convention on Human Rights ('the convention').

The European Court of Human Rights found that the length of the proceedings was excessive and failed to meet the 'reasonable time' requirement. There was accordingly a breach of article 6. Ruling on an equitable basis, it awarded €2,400 for non-pecuniary damage resulting from the lengthy examination of the case.

PUBLIC SECTOR

Possession claims: public law defences

■ Welwyn Hatfield DC v McGlynn

[2009] EWCA Civ 285, 1 April 2009

Mr McGlynn applied to the council for homelessness assistance for himself and his

partner who was pregnant. In 2000, the council provided him with a non-secure tenancy of temporary accommodation (HA 1985 Sch 1 para 4). Mr McGlynn's partner later left. In 2003, the council received complaints from other residents about anti-social conduct. In 2004, it served notice to quit. After the intervention of a drugs worker, the council wrote: 'If we do not receive any further complaints of anti-social behaviour that can be linked to Mr McGlynn or his property we will consider granting him a further non-secure tenancy with an option to him being re-housed in a smaller property as requested' (para 9). Ten months later, the council brought a possession claim. Mr McGlynn's defence was that the decision to bring the claim had been unreasonable. He relied on his right to respect for his home under Human Rights Act (HRA) 1998 Sch 1 article 8 and 'Gateway (b)' of the decision in *Kay v Lambeth LBC* [2006] UKHL 10; [2006] 2 AC 465. District Judge Eynon struck out the defence and made a possession order. Mr McGlynn appealed.

The Court of Appeal allowed the appeal and remitted the claim for trial. Following *Doran v Liverpool City Council* [2009] EWCA Civ 146, Toulson LJ said that the effect of *Doherty v Birmingham City Council* [2008] UKHL 57, [2008] 3 WLR 636 is twofold. First, there is no formulaic or formulistic restriction of the factors which may be relied on by an occupier in support of an argument that the council's decision to serve a notice to quit, and seek a possession order, was one which no reasonable council would have taken. Second, the question whether or not the council's decision was one which no reasonable person would have made is to be decided by applying public law principles as they have been developed at common law, and not through the lens of the convention. In this case, it was seriously arguable that a reasonable council would not have issued proceedings unless satisfied that there had been some significant further breach by Mr McGlynn.

■ Swansea City Council v Joyce

[2009] EWHC (Ch) (Cardiff District Registry), 31 March 2009[19]

The council claimed possession from the defendant and other Gypsies who were occupying council-owned or leased land on Swansea Industrial Park. Ms Joyce's defence was that the decision to bring the claim had been made in ignorance of a relevant fact: that some of the defendants had been told by a councillor 'that if they moved to the area on which they currently reside, they could stay there for some six to nine months until a permanent site was available, alternatively until a planning decision was reached whether or not to grant permission'. She relied on her right to respect for her home under HRA Sch 1 article 8 and 'Gateway (b)' of the decision in *Kay v Lambeth LBC*.

HHJ Jarman QC, sitting as a deputy High Court judge, was satisfied that the failure to advise the relevant committee of the temporary authorisation had meant that it had not taken a relevant matter into account and had produced a decision no reasonable council could have reached. The possession claim was dismissed.

■ Bristol City Council v McCalla

Bristol County Court, 19 February 2009[20]

Mr McCalla was a secure tenant. He accrued rent arrears because of housing benefit problems. He was evicted in circumstances which the court later found to be oppressive. As his previous property had been re-let, he agreed to become an introductory tenant of another property in January 2008. He brought a claim against the council for damages arising from his eviction. It was compromised in return for the sum of £4,000. However, the council also obtained injunctions against him as a result of allegations of threatening behaviour towards council staff. In May 2008, Mr McCalla encountered a member of the council staff at the court offices and was abusive towards her. As a result, the council decided to terminate his introductory tenancy. He requested a review, but the decision to terminate was upheld. However, the notification of the review decision was a day late. The council subsequently served another notice of its intention to terminate the introductory tenancy. Mr McCalla requested a review of that decision. It was his case that he had understood the settlement of the damages claim to include a withdrawal of the threat to issue possession proceedings. The council notified Mr McCalla that it would not consider any of the history or the damages claim at the review. As a result, he did not attend the review hearing. The decision was upheld and a possession claim was issued.

At the hearing of the possession claim,Mr McCalla was represented by the duty solicitor, who applied for an adjournment so that Mr McCalla could pursue a claim for judicial review. A district judge refused the application for an adjournment. Mr McCalla appealed and submitted that directions should have been given permitting him to defend the claim by arguing that the council had erred in law when deciding to terminate the tenancy and/or bring the possession proceedings.

Recorder Mott QC granted permission to appeal, upheld the appeal and quashed the possession order. Following *Kay v Lambeth LBC* and *Doherty v Birmingham City Council*, he found that it was open to Mr McCalla to challenge the council's decision to terminate the tenancy as a defence to the possession claim. The challenges could be both on traditional judicial review grounds and against the council's assessment of the balance required by article 8(2) of the convention. He directed himself that the court should not substitute its own view, but should apply *Wednesbury* principles. He decided that the defence had a real prospect of success for three arguable errors of law:

- the council's decision not to take into account the history;
- its failure to look at the various incidents in perspective; and
- its failure to consider properly the seriousness of eviction for Mr McCalla and his children, who had contact with him.

The grant of 'tenancies' to children

■ Hammersmith and Fulham LBC v Alexander-David

[2009] EWCA Civ 259, 1 April 2009

Ms Alexander-David applied to the council for homelessness assistance when she was 16 and pregnant. The council provided her with temporary accommodation with a non-secure tenancy on its standard terms and conditions. When it later received complaints from other residents about her conduct, it served a notice to quit and brought a possession claim. A district judge made a possession order. An appeal to a circuit judge was dismissed.

The Court of Appeal allowed a second appeal. Since Ms Alexander-David was not 18 when the tenancy was granted, she could not hold a legal estate (Law of Property Act (LPA) 1925 s1(6)). A periodic tenancy is a legal estate. If a person purports to grant a legal estate to a minor, the grant operates as a declaration that the transferor holds the land in trust for the minor (Trusts of Land and Appointment of Trustees Act 1996 s2(6) and Sch 1 para 1(1)). The effect of the grant was to place the council in the role of trustee of the tenancy until Ms Alexander-David reached the age of 18. It could not give a valid notice to quit because to do so would be in breach of that trust. Therefore, it could not determine the tenancy or seek possession. Councils which wish to avoid such a result – but want to accommodate teenagers – may do so by providing them with non-exclusive possession (because exclusive possession is the necessary hallmark of a tenancy).

Demoted tenancies

■ Brighton and Hove City Council v Knight

Brighton County Court, 25 March 2009[21]

Ms Knight was initially a secure tenant. That tenancy was demoted by order of the court. The council then served a notice of proceedings for possession under HA 1996 s143E. Ms Knight requested a review in accordance with s143F. The council, on review, upheld its original decision, but did not notify Ms Knight of that outcome until one day after the date specified by s143F(6). The council then began a possession claim. It argued that the court could still make a possession order and should do so as HA 1996 does not specify any sanction for non-compliance with the provisions. It relied on *R (McDonagh) v Salisbury DC* (2001) *Times* 15 August, QBD, Administrative Court, where it was held that defects in the review procedure for introductory tenancies were not fatal to a possession claim.

District Judge Fawcett rejected these arguments and dismissed the possession claim. Housing provisions require strict interpretation. The district judge could not ignore the fact that the council had not complied with s143F. Although permission to appeal was granted, the council decided not to appeal.

Anti-social behaviour

Obligations of landlords towards tenants

■ X and Y v Hounslow LBC

[2009] EWCA Civ 286, 2 April 2009

The claimants were adults with learning disabilities. Y was the secure tenant of a council flat and X was her partner. They lived with two children aged 11 and eight. Over a weekend in mid-November 2000, they were effectively imprisoned in their home by local youths who gained entry to the property and seriously assaulted and abused both the adults and the children. They were subjected to appalling degradation during the attack. They brought an action for damages in negligence against their council, as landlord and as social services authority, for its failure to protect them. Maddison J found that it had become reasonably foreseeable that an incident such as did occur would take place. The council had failed to invoke or even contemplate using the emergency transfer procedure. In the special circumstances of the case, the council did owe a duty of care to the claimants. It had been negligent in failing to arrange an emergency transfer. Damages and costs were awarded ([2008] EWHC 1168 (QB); August 2008 *Legal Action* 42). The council appealed.

The Court of Appeal allowed the appeal. It held that although departments of local authorities should communicate with one another, the duty to do so is not a duty of care owed to members of the public. A local authority does not owe a duty of care to protect people from the criminal acts of others, unless the authority has assumed a specific responsibility for doing so (*Mitchell v Glasgow City Council* [2009] UKHL 11; (2009) *Times* 26 February). Hounslow had never assumed such a responsibility in this case. See also page 15 of this issue.

PRIVATE SECTOR

Return of deposits

■ Saad v Hogan

Brentford County Court, 16 February 2009[22]

In November 2005, Mr Saad granted Ms Hogan an assured shorthold tenancy for one year at a rent of £1,000 per month. Ms Hogan paid a deposit of £1,000. The tenancy deposit provisions of HA 2004 ss212–214 came into force in April 2007. In November 2007, Mr Saad granted Ms Hogan a further one-year tenancy. The new tenancy agreement provided for payment of a deposit of £1,000, but no new deposit was physically handed over; the landlord retained the deposit originally paid. In June 2008, the landlord served a HA 1988 s8 notice relying on arrears of rent. Ms Hogan defended on the basis that the landlord had failed to protect her deposit and that she wished any compensation to be set off against the rent arrears. By the date of the possession hearing, four months' rent were unpaid. District Judge Rowley found that Mr Saad was under no obligation to protect the deposit because no money was paid over under the 2007 agreement. She made a possession order under HA 1988 Sch 2 Part 1 Ground 8. Ms Hogan appealed.

HHJ Oppenheimer noted that 'extraordinarily' there were no transitional provisions to provide for the situation where a deposit was not physically paid over because money was retained under an earlier agreement. 'The draftsman … has lamentably failed to deal with this obvious point.' In the absence of guidance in the legislation, he adopted a purposive construction. Having regard to s212, 'the purpose of the statutory provisions is very clear, namely to safeguard such deposits and to facilitate the resolution of disputes'. In one respect, there had been a payment by the tenant under the 2007 agreement even though there was no physical or electronic transfer of money. He allowed the appeal and stated that Mr Saad was liable to pay £3,000, subject to set off, for failure to protect the deposit.

Surrender by operation of law

■ Artworld Financial Corporation v Safaryan

[2009] EWCA Civ 303, 27 February 2009

Artworld was a company registered in the British Virgin Islands, which was held by the Tatanaki family 'as a vehicle for the tax-efficient running of its family interests' (para 2). The Tatanaki family, and in particular Mr Fayez Tatanaki, gave instructions about what was to be done with its property. Those wishes were followed. In September 2004, Artworld let premises to tenants for a term of three years at an annual rent of £390,000. There were a number of maintenance problems which Artworld failed to fix. As a result, in 2006, when there were 15 months remaining on the lease, the tenants left the property. Mr Tatanaki accepted back the keys, obtained a check-out report and inventory, and then redecorated the property in his family's taste. He also rehung curtains and reinstated items of furniture which earlier had been removed at the tenants' request. A member of the Tatanaki family then moved possessions into the property and stayed there for his own benefit, not as a caretaker. Artworld issued proceedings against the tenants, claiming
the rent for the remaining period of the tenancy. HHJ Marshall QC found that the landlord's actions had gone beyond anything which was consistent with the continued existence of the lease and that the lease had been surrendered by operation of law. Artworld appealed.

The Court of Appeal dismissed the appeal. Jacob LJ stated that: 'Going in and living in the property is in effect taking it over and treating it as your own, which is inconsistent with the continuance of a lease' (para 25). The judge did not misdirect herself in relation to the correct test to be applied. Her application of that test was not flawed. She was entitled to reach the conclusion that she had reached.

Landlords' agents

■ Office of Fair Trading v Foxtons Ltd

[2009] EWCA Civ 288, 2 April 2009, (2009) Times 10 April

The OFT took the view that some of the terms used in Foxtons' standard terms and conditions for the provision of services to landlords were 'unfair'. The High Court directed that the matter should be decided at trial but held that the OFT could not be

granted an injunction to prevent Foxtons continuing to use or enforce the terms in individual contracts, even if they were unfair.

The Court of Appeal allowed an appeal by the OFT. An injunction in the terms sought could be properly granted by the trial judge if that was the appropriate relief to grant.

HOUSING ALLOCATION

Local Government Ombudsman

Investigation

■ Hounslow LBC

07/A/14216,
14 April 2009

The council operated a choice-based lettings scheme in which priority for bidding was accorded by 'bands'. Band A was the highest band.

The complainants were private sector tenants and the parents of a child. They were awarded Band C status for rehousing as a result of overcrowding in their rented flat. Their landlord later sought possession as he needed the flat for his own use and the couple were eventually evicted. The council accepted that it owed the main homelessness duty under HA 1996 Part 7 (s193), moved their housing application into Band B, but told the couple that no suitable temporary accommodation was available. They agreed to stay with an aunt as a temporary measure.

The council later offered a house as temporary accommodation in performance of the main homelessness duty but the couple refused it (because the effect of acceptance of suitable temporary accommodation would have been to move them down again to Band C in the scheme for distribution of permanent council homes). They remained with the aunt.

The council moved their application to Band C but the couple claimed that they met the criteria for access to Band B under a provision which read 'applicants may qualify for Band B if they have dependent children AND live in insecure accommodation AND do not have a bedroom AND lack or share amenities' (para 10). The council refused to apply that provision to their circumstances living with the aunt. It said that:

■ there were no cases on its housing register to which that criterion applied; and

■ it interpreted the reference to 'insecure accommodation' narrowly and with regard to the type of property rather than the type of tenancy held by the applicant. So, for example, insecure accommodation might be a hostel or bed and breakfast, where facilities are shared with people unknown to the applicants.

The Ombudsman found that there had been maladministration. If the council had intended the provision to apply as narrowly as the interpretation it had adopted, the wording should have reflected what was intended. On the plain words of the provision, it was satisfied by the couple. Their application thus had not been assessed in line with the provisions of the published allocations policy.

HOMELESSNESS

■ R (First Real Estates UK Ltd) v Birmingham City Council

[2009] EWHC 817 (Admin),
1 May 2009

The council needed a ready supply of properties to be available for use, often at short notice, as temporary accommodation for the homeless to whom the council owed duties under HA 1996 Part 7. Over a period of three years, the council entered into a series of licence agreements with the claimant, a private company, under which the company would procure and supply suitable properties from the private sector. The licences were determinable on written notice and contained no minimum period of notice. After it received complaints from residents and reports on conditions from building inspectors, the council decided to end the arrangements with the company and gave seven days' written notice to determine the company's licences. It then rehoused the occupiers.

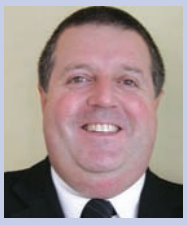
The company sought a judicial review on the grounds that:

■ the individual licence agreements were the subject of an overarching unwritten agreement that the arrangements between the council and the company would not be summarily terminated; or

■ the council had raised a legitimate expectation to that effect.

Plender J dismissed the claim. The council had terminated the agreements in keeping with their terms and had not been obliged to continue its arrangements with the company. On the facts, there had been no overarching agreement and there had been no legitimate expectation to anything more than the licence agreements themselves provided.

1 Available at: www.communities.gov.uk/documents/housing/pdf/1200095.pdf.
2 Available at: www.tenantservicesauthority.org/server/show/ConWebDoc.17877.
3 Available at: www.homeless.org.uk/policyandinfo/issues/EA/project.
4 See: www.direct.gov.uk/en/HomeAndCommunity/Keepingyourhomeevictionsandhomelessness/Mortgagesandrepossessions/DG_174005.
5 Available at: www.communities.gov.uk/publications/housing/mortgagesupportguidance.
6 Available at: www.communities.gov.uk/documents/housing/pdf/1206580.pdf.
7 Available at: www.justice.gov.uk/news/newsrelease210409b.htm.
8 Available at: www.dwp.gov.uk/housingbenefit/user-communications/circulars/2009/a5-2009.pdf.
9 See: www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/repossessions/.
10 Available at: www.dwp.gov.uk/housingbenefit/claims-processing/lha/products/lha-guidance-manual-apr09.pdf.
11 Available at: www.dwp.gov.uk/housingbenefit/user-communications/hb-direct-newsletter/.
12 Available at: www.housing.org.uk/Uploads/File/Policy%20briefings/nspo2009br04.pdf.
13 Available at: www.communities.gov.uk/documents/housing/pdf/1204271.pdf.
14 Available at: www.communities.gov.uk/publications/housing/hipenforcementguide.
15 Available at: http://services.parliament.uk/bills/2008-09/equality.html.
16 Available at: www.cih.org/publications/pub801.htm.
17 See: www.irisconsulting.co.uk/.
18 See: www.scotland.gov.uk/Publications/2009/04/27095102/0.
19 Community Law Partnership, solicitors, Birmingham and Stephen Cottle, barrister, London.
20 Frances Barrett, solicitor, South West Law, Bristol and Liz Davies, barrister, London.
21 Rachel Cooper, Brighton Housing Trust, Brighton and Beatrice Prevatt, barrister, London.
22 Brian McKenna & Co, solicitors, Hounslow.



Nic Madge is a circuit judge. Jan Luba QC is a barrister at Garden Court Chambers, London. He is also a recorder. Readers can visit their personal websites at: www.nicmadge.co.uk and at: www.gardencourtchambers.co.uk/barristers/jan_luba_qc.cfm. The authors are grateful to the colleagues at notes 19–22 for transcripts or notes of judgments.