

# 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

### Homelessness in England

On 9 November 2012, the amendments made by Localism Act 2011 ss148–149 to Housing Act (HA) 1996 Part 7 (homelessness) were brought into force in England: Localism Act 2011 (Commencement No 2 and Transitional Provisions (England) Order 2012 SI No 2599 articles 1 and 2. The most important change enables local housing authorities in England to end the main housing duty owed under HA 1996 s193(2) by making a 'private rented sector offer'. For an overview of the amendments and their intended effects see 'Housing and the Localism Act 2011: homelessness', December 2011 *Legal Action* 21. The changes do not affect those applicants who had applied for homelessness assistance before 9 November 2012 and were on that date owed some form of accommodation duty by a local housing authority: article 3 of the Commencement Order.

Premises that are the subject of a private rented sector offer must be suitable for an applicant and his/her household. The Homelessness (Suitability of Accommodation) (England) Order 2012 SI No 2601, in force from 9 November 2012, sets out a list of matters to which a local housing authority must have regard in determining whether or not such premises are suitable. As a result of a consultation exercise, those factors include additionally the location of the property.<sup>1</sup> To accompany the new Order, the UK government has issued supplementary statutory guidance in exercise of its powers under HA 1996 s182: *Guidance for local housing authorities* (Department for Communities and Local Government (DCLG), October 2012).

The latest figures for statutory homelessness in England between 1 April 2012 and 30 June 2012 show that 12,860 applicants were accepted as owed the main homelessness duty in this period, nine per cent higher than during the same quarter of 2011:

*Statutory homelessness: April to June quarter 2012 England* (DCLG, September 2012).<sup>2</sup>

The statistics also show that 51,640 homeless households were in temporary accommodation in England on 30 June 2012, seven per cent higher than on the same date in 2011. The National Housing Federation (NHF) has published research showing that, despite the embargo on the use of bed and breakfast (B&B) accommodation for homeless families set out in the Homelessness (Suitability of Accommodation) (England) Order 2003 SI No 3326, the number of homeless households in B&B in England as at the end of March 2012 had increased by 44 per cent to 3,960 since the first quarter of 2011: NHF news release, 17 September 2012.<sup>3</sup>

The UK government has announced that local housing authorities in England will receive £160m over the two years 2013/14 and 2014/15 in homelessness prevention grants: DCLG press notice, 2 September 2012.<sup>4</sup> The amount that each council in England is to receive is shown in *Homelessness prevention grant – provisional allocations to local authorities 2013/14 & 2014/15* (DCLG, September 2012).<sup>5</sup>

### Social housing allocation

There were 362,610 lettings of social housing in England in 2011/2012, a two per cent increase on 2010/2011: *Social housing lettings & sales in England, 2011/12: continuous recording (CORE) data* (DCLG, September 2012).<sup>6</sup> Of those, 72 per cent of lets were by private registered providers and 28 per cent were by local authorities. Overall, 67 per cent of lettings were for general needs social housing. The most common type of household taking up a general needs letting comprised a single adult aged under 60, either with or without children (accounting for over 50 per cent of lettings).

In addition to relettings, mobility in social housing is achieved through mutual exchanges. The UK government has reported that the latest

figures show nearly 6,000 searches a day are conducted on HomeSwap Direct – an online scheme that identifies social rented homes available for mutual exchange across the country: DCLG press notice, 20 August 2012.<sup>7</sup> The total number of searches since it launched in October 2011 is shortly expected to reach 1.5 million.

### Evictions

The latest court statistics show that 30,740 warrants of possession were issued to repossess properties in the second quarter of 2012 and there were 13,194 actual repossessions made by county court bailiffs: *Court statistics quarterly April to June 2012* (Ministry of Justice (MoJ), September 2012).<sup>8</sup> Of the actual evictions, 4,846 were on behalf of mortgage lenders.

### Social housing fraud

A new briefing paper on addressing fraud in social housing has been published: *How to ... tackle tenancy fraud* (Chartered Institute of Housing, 2012).<sup>9</sup>

### Housing for ex-offenders

The organisation Crisis has released a new report providing guidance to offender managers and supervisors about how they can best support offenders to get homes in the private rented sector: *Finding and sustaining a home in the private rented sector – the essentials. A guide for frontline staff working with homeless offenders* (Crisis, 2012).<sup>10</sup>

### Housing and anti-social behaviour

The House of Commons Library's briefing note *Anti-social behaviour – the government's proposals* (August 2012) sets out the background and content of the UK government's latest proposals for reform of the tools designed to tackle anti-social behaviour.<sup>11</sup>

### Squatting

Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 s144 was brought into force on 1 September 2012. It creates a new offence in relation to trespass in residential property. The offence covers squatting in all residential buildings whether or not the squatters entered before or after the commencement date. The MoJ has issued a circular to the judiciary outlining the new offence and offering guidance on it: *Circular No 2012/04 Offence of squatting in a residential building* (MoJ, August 2012).<sup>12</sup> A revised version of an information leaflet produced for homeowners who find squatters in occupation has been published: *Advice on dealing with squatters in your buildings* (MoJ, September 2012).<sup>13</sup>

In relation to non-residential property and

land, the UK government has called on councils in England to clamp down on illegal encampments on land and to stop unauthorised Traveller sites being set up. It has issued new guidance to local authorities on the powers available to deal with such squatting: *Dealing with illegal and unauthorised encampments. A summary of available powers* (DCLG, August 2012).<sup>14</sup>

### Housing and human rights

The UK government has asserted that in the light of the Supreme Court judgments in *Manchester City Council v Pinnock* [2010] UKSC 45 and *Hounslow LBC v Powell* [2011] UKSC 8, no further measures are necessary to address the judgments of the European Court of Human Rights (ECtHR) in *McCann v UK* App No 19009/04 and *Kay v UK* App No 37341/06: *Responding to human rights judgments. Report to the Joint Committee on Human Rights on the government response to human rights judgments 2011–12* (MoJ, September 2012, page 35).<sup>15</sup>

### Houses in multiple occupation

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012 SI No 2111 came into force in England on 10 September 2012. The regulations are designed to make it easier for landlords and their agents to renew licences to operate houses in multiple occupation (HMOs).

### Private rented sector

New non-statutory guidance has been issued by the UK government to help local authorities tackle rogue private landlords operating in their areas: *Dealing with rogue landlords. A guide for local authorities* (DCLG, August 2012).<sup>16</sup>

Sir Adrian Montague's review group, established to look at barriers to institutional investment in private rented housing, has presented its report to the UK government: *Review of the barriers to institutional investment in private rented homes* (DCLG, August 2012).<sup>17</sup>

### Leaseholders

The think tank CentreForum has proposed reform of the law relating to long leases, including the abolition of forfeiture for non-payment of charges, the establishment of an independent regulator of leasehold management and the reform of the leasehold valuation tribunal (LVT) process: *A new lease of life: reforming leasehold for the 21st century* (CentreForum, 2012).<sup>18</sup>

### Right to buy in Wales

Part 1 (Suspension of the Right to Buy and Related Rights) of the Housing (Wales) Measure 2011 was brought into force on 3 September 2012: the Housing (Wales) Measure 2011 (Commencement No 2) Order 2012 SI No 2091. A local housing authority in Wales may now apply to the Welsh Ministers for a direction to suspend the right to buy and related rights in its area for up to five years, provided it has completed a consultation exercise and, in the light of that exercise, has concluded that the housing pressure condition is satisfied. The Housing (Wales) Measure 2011 (Consequential Amendments to Subordinate Legislation) Order 2012 SI No 2090 makes provision for the statutory modifications that would follow in those areas where the right to buy was suspended.

## HUMAN RIGHTS

### Article 6

#### ■ *Vojtechová v Slovakia*

*App No 59102/08,*  
25 September 2012,  
[2012] ECHR 1757

A housing co-operative brought possession proceedings against a tenant for non-payment of rent. The Civil Code provided that a tenancy should not be terminated by a court where a tenant was 'in material need' and that situation was not his/her fault (para 19). The tenant (and her daughter, her live-in carer) defended the case on the basis that she was disabled, in financial need and could not pay the rent. The district court made a possession order which was upheld by all the domestic appeal courts. The daughter complained to the ECtHR that the courts had not addressed the defence raised.

The ECtHR stated that it is not its task to take the place of the domestic courts, which are in the best position to assess the evidence before them, establish facts and interpret domestic law. The ECtHR will not, in principle, intervene, unless the decisions reached by the domestic courts appear arbitrary or manifestly unreasonable and provided that the proceedings as a whole are fair as required by article 6 of the European Convention on Human Rights ('the convention'). However, one aspect of the right to a fair trial under article 6 is that a judicial tribunal or court should give reasons for its decision. In this case, the courts had failed to give reasons engaging with the statutory defence raised. The ECtHR awarded €3,000 compensation and €1,400 costs.

### Article 8

#### ■ *Buckland v UK*

*App No 40060/08,*  
18 September 2012,  
[2012] ECHR 1710

Ms Buckland was a Gypsy who occupied a pitch on a Gypsy and Traveller site owned by Neath Port Talbot CBC. Her licence to occupy was terminated and the Gypsy Council began a possession claim against her. It alleged substantial nuisance to other occupiers. At the date of the hearing, the county court could suspend the operation of a possession order (Caravan Sites Act 1968 s4) but could not refuse to make one. The court made an order suspended for the maximum period. Ms Buckland complained to the ECtHR that she had not had an opportunity to ask the county court to decide whether or not her eviction was proportionate.

The ECtHR found that there was a breach of article 8. It stated that:

*... the loss of one's home is the most extreme form of interference with the right to respect for the home. Any person at risk of an interference of this magnitude should in principle be able to have the proportionality of the measure determined by an independent tribunal in light of the relevant principles under article 8 of the convention, notwithstanding that, under domestic law, his right to occupation has come to an end* (para 65).

This obligation was not met by simply empowering a court to suspend a possession order. As a result, the procedural safeguards required by article 8 for the assessment of the proportionality of the interference were not observed. The ECtHR awarded €4,000 compensation and €4,000 costs.

### Article 1 of Protocol No 1

#### ■ *Bjelajac v Serbia*

*App No 6282/06,*  
18 September 2012,  
[2012] ECHR 1713

Ms Bjelajac was the owner of a loft. The building suffered from a leaking roof which caused water damage to her loft. In May 1999, the local authority ordered a state-run company to carry out repair works to the roof. This was not done and Ms Bjelajac issued enforcement proceedings in the Municipal Court. An order was made in June 2002, requiring the company to carry out the works. This order was not complied with until June 2007. Ms Bjelajac contended that the delay in enforcing the 2002 order amounted to a violation of her rights under article 1 of Protocol No 1.

The ECtHR found a breach of article 1 of Protocol No 1. A 'claim' can constitute a

'possession' within the meaning of article 1 of Protocol No 1 if it is sufficiently established to be enforceable (para 50). That was undoubtedly so in this case, because both the administrative decision and the court judgment ordered the repairs to the roof to be carried out. The impossibility of having the judgment enforced for a substantial period of time, given that two years of inactivity were not attributable to Ms Bjelajac, constituted an interference with her right to peaceful enjoyment of her possessions. The government was unable to provide sufficient justification for the delay. In its absence, it was unnecessary to consider whether a fair balance had been struck between the rights of Ms Bjelajac and those of the community. (There was no claim for compensation.)

## POSSESSION CLAIMS

### ■ **Shetland Islands Council v Hassan and Leask**

[2012] ScotSC 89,  
3 September 2012

The defendants were tenants with security of tenure under Housing (Scotland) Act 2001. The tenancy agreement obliged the tenants 'not to use or allow the use of the subjects for illegal or immoral purposes' (para 5).

In April 2009, Mr Hassan was convicted of an offence in the premises contrary to Misuse of Drugs Act (MDA) 1971 s5(2). In February 2011, he was convicted of an offence under MDA s4(3)(b) by being concerned in the supply of a class B drug within the premises. He was sentenced to two years' imprisonment. According to the Sheriff, the council 'rightly regard drugs dealing within their housing stock as having a detrimental effect upon the public at large and upon the local community concerned' (para 10). In a subsequent possession claim, Sheriff Mann found that it was reasonable to make a possession order, even though it was the council's intention to grant a sole tenancy of the property to Mr Leask.

## LONG LEASES

### ■ **Sinclair Gardens Investments (Kensington) Ltd v 31 Croydon Road Ltd**

[2012] UKUT 310 (LC),  
10 September 2012

Five identical leases of flats in a block contained rent review provisions which included a proviso that stipulated that it was 'being made so as to comply with the requirements of section 78 of the Housing Act 1980'. The question arose as to what the effect of the proviso was after section

78 had been repealed.

Allowing an appeal from a LVT, the Upper Tribunal (Lands Chamber) held that if section 78 were to be repealed in relation to the subject leases (as had happened), it no longer needed to be complied with so that the proviso was spent and should be ignored for the remainder of the lease.

### ■ **Fairhold Mercury Ltd v Merryfield RTM Co Ltd**

[2012] UKUT 311 (LC),  
10 September 2012

Merryfield was established by leaseholders to exercise their collective right to take over the management of their homes. Two statutory notices were served by Merryfield on the freeholder, Fairhold. One was withdrawn and the other lapsed. Fairhold applied for an order for payment of its costs of dealing with the notices. The LVT refused the application, relying on a point that Merryfield itself had not taken.

The Upper Tribunal held that the LVT decision was contrary to natural justice and wrong. It awarded Fairhold the costs as claimed.

### ■ **Carey-Morgan v Trustees of the Sloane Stanley Estate**

[2012] EWCA Civ 1181,  
3 September 2012

Long leaseholders exercised their right to acquire the freehold of their homes and the building containing them. At issue was the price to be paid. This had been considered by the LVT and the Upper Tribunal (Lands Chamber). The leaseholders appealed to the Court of Appeal on two aspects of the calculation of the price, ie:

■ the 'hope value' in relation to flats let on leases with unexpired terms of less than 80 years and where the leases were held by tenants who were not tenants participating in the purchase; and

■ the 'deferment rate' to be used in valuing the freehold interest in relation to flats subject to leases with unexpired terms of less than five years.

The Court of Appeal dismissed the appeal and gave guidance, in particular, about the calculation of deferment rates.

### ■ **Havering LBC v Smith**

[2012] UKUT 295 (LC),  
21 August 2012

A council tenant exercised his right to buy a flat. The council gave notice under HA 1985 s125 outlining future likely service charge liabilities. The sale was completed in 2001. In 2004, the flat was sold and the lease was taken by Ms Smith. Before purchasing, she sought an assurance, which was given by the council, that service charges would be limited to those in the section 125 notice. The council later sought service charges in respect of major

works at amounts beyond those in the section 125 notice. Ms Smith applied to the LVT, which found that the recoverable charges were limited by the notice.

The Upper Tribunal (Lands Chamber) dismissed the council's appeal. While the content of the notice would not otherwise have acted as a bar on recovery, the council was estopped by its own later representations from recovering a higher charge from Ms Smith.

### ■ **Bower Terrace Student Accommodation Ltd and Herbal Hill Studios Ltd v Space Student Living Ltd**

[2012] EWHC 2206 (Ch),  
27 July 2012

The two claimant companies each owned blocks of accommodation let to students. Each owed significant sums to a bank. The bank appointed receivers to take over management of the blocks and to obtain the rental income. The defendant, Space, claimed that it had been granted leases to operate the buildings which pre-dated the charges held by the bank, and it declined to hand over management of them to the receivers.

Foskett J was not satisfied that Space had been granted leases of the blocks. The true position was more likely to be that it had simply been a managing agent for the companies. An injunction was granted enabling the receivers to carry out their functions pending any future trial.

### ■ **Panayotov v Falmouth House Freehold Co Ltd**

[2012] EWCA Civ 1174,  
17 July 2012

The defendant was a company established by leaseholders to acquire the freehold of their block of flats. The claimant was one of the leaseholders participating in the acquisition of the freehold and he paid the company over £100,000 in connection with the acquisition. He then sought repayment of the monies on the basis that they had been advanced as a loan. HHJ Ralls QC, sitting as a deputy High Court judge, held that the money was not a loan.

The Court of Appeal dismissed an appeal from that decision. The facts relating to the transaction showed that the money was not a loan but payment for a further long lease.

## HARASSMENT AND EVICTION

### Damages

#### ■ **Webb v Amreen**

Birmingham County Court,  
31 August 2012<sup>19</sup>

Ms Webb entered into an assured shorthold tenancy agreement on 5 September 2007 for a term of six months from 8 September 2007. After expiry of the fixed term, she became a

periodic tenant. The defendant landlord sent her a text message with the intention of interfering with her quiet enjoyment of the premises and with the intention of getting her to leave. She was then excluded from the premises, despite a warning from the council's tenancy relations officer. The defendant pleaded guilty to one offence under the Protection from Eviction Act (PEA) 1977 and was fined £1,000.

In civil proceedings, HHJ Robert Owen QC awarded general damages of £16,000 (160 days at £100 per day); aggravated damages of £3,500; exemplary damages of £2,500; special damages of £498.40; and damages under the HA 2004 of £2,160 (return of deposit and a sum of three times the amount of the deposit). The court also ordered interest of £1,972. The total judgment was for £26,630.40 plus costs.

## CRIMINAL OFFENCES

### ■ R v Haigh, Blake and Ismond

*Westminster Magistrates' Court,*  
27 September 2012

On 2 September 2012, the three defendants were discovered squatting in a Pimlico flat owned by a housing association. They were prosecuted for the offence of squatting in a residential building contrary to LASPO Act s144, which had come into force on 1 September 2012 (see above). The section applies to squatters who entered premises before the Act came into effect as well as subsequent entrants. All three pleaded guilty. They appear to have been unrepresented.

Mr Haigh was sentenced to 12 weeks' immediate imprisonment. Ms Blake was remanded in custody to await sentence. Mr Ismond was fined £100 and was recalled to prison for breach of his licence conditions.

### ■ Salford City Council v Kamali

*Minshull Street Crown Court,*  
21 September 2012

In November 2009, the council introduced selective licensing under the HA 2004 requiring private landlords in its Broughton district to obtain licences. The defendant landlord owned 20 properties in that district. The council reminded him to apply for licences, but he failed to do so until he received a summons in criminal proceedings brought by the council. He pleaded guilty to 20 offences of operating flats without a landlord's licence.

He was fined £500 per offence, a total of £10,000; ordered to pay £5,000 towards legal costs; and warned that default on payment of the fine could result in six months' imprisonment.

### ■ Birmingham City Council v Jabber, Begum and Bahar

*Birmingham Magistrates' Court,*  
29 August 2012

The defendants were private landlords. A fire occurred at a property which they let. Following the fire, council officers inspected the property and found that it had not been maintained properly: for example, several smoke detectors were still covered in their original wrappings. The landlords were prosecuted for their failure to maintain the property in keeping with the Management of Houses in Multiple Occupation (England) Regulations 2006 SI No 372.

All three defendants pleaded guilty and were fined a total of £3,000. They were ordered to pay costs totalling £3,814.

### ■ Health and Safety Executive v Dewsbury

*Stafford Magistrates' Court,*  
12 September 2012

Lichfield DC asked the defendant, a private landlord, to produce gas safety certificates for boilers at two properties which she rented out. The certificates were not produced. The Health and Safety Executive (HSE) served two improvement notices requiring her to arrange for a competent gas fitter to carry out an inspection of the gas appliances in the two premises and produce a certificate for both. When she failed to comply, the HSE prosecuted. She pleaded guilty to breaching Health and Safety at Work etc Act 1974 s33(1)(g) and was fined £1,500 and ordered to pay costs of £3,209.

### ■ R v Zaman

*Leeds Crown Court,*  
13 August 2012

The defendant was the private landlord of housing accommodation let to students. At the end of the lettings he failed, without explanation, to return tenants' deposits. When sued, he failed to satisfy judgments. He was prosecuted for 18 offences of theft of the deposits (each ranging from £200–£300), amounting to about £5,000 in total.

The defendant pleaded guilty. He received a suspended sentence order with 46 weeks' imprisonment and a requirement that he perform 150 hours of unpaid work.

### ■ Newham LBC v Narine

*Snaresbrook Crown Court,*  
10 July 2012

The defendant was a private landlord. She wished to evict her tenant. She went to the property, obtained the key from the tenant's childminder and refused to readmit the tenant, except to collect her belongings. On a prosecution brought by the council, the defendant was found guilty of an offence under the PEA 1977. She was fined £1,000 and ordered to pay a contribution of £1,500 towards prosecution costs together with a £15

victim surcharge. A district judge (magistrates' court) also awarded the former tenant £540 compensation. The defendant appealed. At Snaresbrook Crown Court her appeal was dismissed, her conviction was upheld and she was ordered to pay the council further costs of £4,319.

## HOUSING ALLOCATION

### ■ R (Carney) v Bolton at Home Limited

*[2012] EWHC 2553 (Admin),*  
6 August 2012

The claimant lived with her mother in a house rented from Bolton Council. In 2009, the family were evicted for anti-social behaviour. The possession order was obtained on grounds that included the misconduct of the claimant herself.

In 2011, the defendant landlord took a transfer of the council's stock and also took over the management of the allocation of properties under the council's housing allocation scheme known as Homes for Bolton, a choice-based lettings scheme. The claimant bid for the tenancy of a house owned by the defendant landlord in the particular area in which the former family home had been situated. She was the highest ranked bidder. Despite that, the defendant bypassed the claimant for an offer of that property relying on a provision of the scheme enabling such a bypass to apply to 'a customer previously evicted for anti-social behaviour being rehoused in the same area as the behaviour took place, even if the customer is now suitable to be rehoused' (para 8). The decision was upheld on an internal review. The claimant sought judicial review.

HHJ Stephen Davies, sitting as a judge of the High Court, dismissed the claim. He rejected a contention that the bypass provision only applied to a former tenant. It was capable of being read as applying to any person who had engaged in anti-social conduct but had applied for housing. The defendant's decision had taken account of relevant considerations and irrelevant matters had not been taken into account. The claimant had not been treated as ineligible for the allocation scheme (HA 1996 s160A(7)) and nor had her reasonable preference been removed (HA 1996 s167(2B) and (2C)). She was able to bid without restriction for properties in other areas of Bolton. The decision was not irrational or otherwise taken unlawfully.

## HOMELESSNESS

### Local Government Ombudsman Complaint

#### ■ Hounslow LBC

11 008 191,  
28 August 2012

A single homeless man with mental health issues applied to the council for assistance with accommodation. In response the council:

- failed to take a homelessness application when he first approached it, and did not do so for a further two months;
- once it had taken an application, delayed reaching a decision on it for approximately three months;
- did not properly respond to concerns about his temporary accommodation;
- failed to keep him properly updated about the progress of his application; and
- left him in B&B accommodation for around five months longer than would otherwise have been the case.

The Local Government Ombudsman found extensive maladministration causing injustice. The council agreed to pay the complainant £500, plus a further £250 to recognise his uncertainty and unnecessary time and trouble, and to review its procedures.

## HOUSING AND CHILDREN

### ■ R (Bates) v Barking and Dagenham LBC

[2012] EWHC (Admin),  
17 August 2012

The claimant and her children had no accommodation. The council decided that, given a history of intentional homelessness, the refusal of offered accommodation and a failure to co-operate with the authorities, it would accommodate the children under Children Act (CA) 1989 s20 but not their mother.

She brought a claim for judicial review of the council's refusal to provide accommodation for her with her children in the exercise of its powers under CA 1989 s17, and sought an interim injunction requiring the council to house the family together until an application for permission to seek judicial review could be determined.

Timothy Straker QC, sitting as a deputy High Court judge, refused to make an injunction. The merits were so poor that permission for judicial review was likely to be refused and, in those circumstances, an injunction would not be appropriate.

#### ■ Ala v Angus Council

[2012] CSOH 135,  
24 August 2012

The claimant was a young Nigerian male who had overstayed his visa. The council decided

that he was over 18 and not entitled to accommodation or any other assistance. On an application for judicial review, the Court of Session conducted a fact-finding hearing and determined that, as at the date of assessment, the claimant had been a child aged 16 or 17 and therefore entitled to assistance.

The judgment of Lord Stewart contains a useful explanation of the way the law is applied on the issue of age assessment in Scotland and deals with both procedure and the assessment of expert evidence.

#### ■ R (TS) v Croydon LBC

[2012] EWHC 2389 (Admin),  
29 August 2012

The claimant was a homeless asylum-seeker from Afghanistan. The council assessed his likely birth date as 1 January 1996. The claimant said that his birth date was 1 August 1997. He sought judicial review of the council's assessment. The correct date would determine the level of services to be provided by the council under the CA 1989.

Fulford J conducted a trial of the issue, hearing live evidence from witnesses. He determined that, on the facts, the council's assessed date was more likely to be correct.

- 1 Explanatory memorandum to the Homelessness (Suitability of Accommodation) (England) Order 2012 SI No 2601, available at: [www.legislation.gov.uk/uksi/2012/2601/pdfs/uksem\\_20122601\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2601/pdfs/uksem_20122601_en.pdf).
- 2 Available at: [www.communities.gov.uk/documents/statistics/pdf/22109391.pdf](http://www.communities.gov.uk/documents/statistics/pdf/22109391.pdf).
- 3 Available at: [www.housing.org.uk/media/news/homeless\\_families\\_in\\_bbs\\_rise.aspx](http://www.housing.org.uk/media/news/homeless_families_in_bbs_rise.aspx).
- 4 Available at: [www.communities.gov.uk/news/newsroom/2208742](http://www.communities.gov.uk/news/newsroom/2208742).
- 5 Available at: [www.communities.gov.uk/documents/newsroom/pdf/2208843.pdf](http://www.communities.gov.uk/documents/newsroom/pdf/2208843.pdf).
- 6 Available at: [www.communities.gov.uk/documents/statistics/pdf/2219847.pdf](http://www.communities.gov.uk/documents/statistics/pdf/2219847.pdf).
- 7 Available at: [www.communities.gov.uk/news/newsroom/2202073](http://www.communities.gov.uk/news/newsroom/2202073).

- 8 Available at: [www.justice.gov.uk/downloads/statistics/courts-and-sentencing/cs-q2-2012/court-stats-quarterly-q2-2012.pdf](http://www.justice.gov.uk/downloads/statistics/courts-and-sentencing/cs-q2-2012/court-stats-quarterly-q2-2012.pdf).
- 9 Available at: [www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/How%20to%20tackle%20tenancy%20fraud.pdf](http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/How%20to%20tackle%20tenancy%20fraud.pdf).
- 10 Available at: [www.crisis.org.uk/data/files/publications/SupportingOffendersInThePRS.pdf](http://www.crisis.org.uk/data/files/publications/SupportingOffendersInThePRS.pdf).
- 11 Available at: [www.parliament.uk/briefing-papers/SN06344.pdf](http://www.parliament.uk/briefing-papers/SN06344.pdf).
- 12 Available at: [www.justice.gov.uk/downloads/legislation/bills-acts/circulars/squatting-circular.pdf](http://www.justice.gov.uk/downloads/legislation/bills-acts/circulars/squatting-circular.pdf).
- 13 Available at: [www.communities.gov.uk/documents/housing/pdf/2208971.pdf](http://www.communities.gov.uk/documents/housing/pdf/2208971.pdf).
- 14 Available at: [www.communities.gov.uk/documents/planningandbuilding/pdf/2205763.pdf](http://www.communities.gov.uk/documents/planningandbuilding/pdf/2205763.pdf).
- 15 Available at: [www.justice.gov.uk/downloads/publications/policy/moj/responding-human-rights-judgments.pdf](http://www.justice.gov.uk/downloads/publications/policy/moj/responding-human-rights-judgments.pdf).
- 16 Available at: [www.communities.gov.uk/documents/housing/pdf/2206919.pdf](http://www.communities.gov.uk/documents/housing/pdf/2206919.pdf).
- 17 Available at: [www.communities.gov.uk/documents/housing/pdf/2204242.pdf](http://www.communities.gov.uk/documents/housing/pdf/2204242.pdf).
- 18 Available at: [www.centreforum.org/assets/pubs/new-lease-of-life.pdf](http://www.centreforum.org/assets/pubs/new-lease-of-life.pdf).
- 19 Saeed Ashiq, Community Law Partnership, solicitors, Birmingham and Marina Sergides, 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 note 19 for the note of the judgment.**

## Introduction to Housing Law

24 January 2013

- London ■ 9.15 am–5.15 pm
- 6 hours CPD ■ Level: Introductory level
- Commercial rate: £215 + VAT ■ Standard rate: £205 + VAT
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