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

Housing allocation and homelessness

The Welsh Government has published new statutory guidance for local housing authorities in Wales covering both social housing allocation and homelessness: *Code of guidance for local authorities: allocation of accommodation and homelessness 2012* (Welsh Government, August 2012).[1] It was issued in exercise of powers under Housing Act (HA) 1996 ss169 and 182 and came into effect on 13 August 2012. It will be updated online twice a year.

Although the guidance is only directly applicable to local councils, the Welsh Government has invited all housing associations operating in Wales to take account of it in performing their own housing functions: *Housing association circular RSL 003/12: code of guidance on allocation of accommodation and homelessness* (Welsh Government, August 2012).[2]

Homelessness

The latest statistics for England show that, in 2011/2012, 174,800 cases of homelessness prevention were estimated to have taken place outside the statutory homelessness framework of HA 1996 Part 7 (Homelessness), an increase of seven per cent on the previous year: *Homelessness prevention and relief: England 2011/12 official statistics* (Department for Communities and Local Government (DCLG), August 2012).[3] The most common action taken was the use by local housing authorities of landlord incentive schemes to secure private rented sector accommodation for those who would have become, or were, homeless (27,600 cases). The UK government has also published a report documenting the cost of homelessness for the national economy: *Evidence review of the costs of homelessness* (DCLG, August 2012).[4]

Tenancy strategies

Local housing authorities in England must publish their tenancy strategies for the letting of social housing in their districts (of their own stock and the stock held by local social landlords) by 15 January 2013: Localism Act 2011 s150. Shelter has published a new report designed to assist local politicians, strategy officers and policy officers in preparing their tenancy strategies in the light of the flexibility available to them as a result of the 2011 Act: *Local decisions on tenure reform: local tenancy strategies and the new role of local housing authorities in leading tenure policy* (Shelter, July 2012).[5] It has also published a briefing for local councillors: *Creating a tenancy strategy suitable for your area* (Shelter, July 2012).[6] The documents were published alongside a background research paper commissioned by Shelter, comparing social housing tenure arrangements in a range of countries: *Security of tenure in social housing: an international review* (Heriot Watt University, May 2011).[7]

Under-occupation of social housing

On 1 April 2013, new welfare benefit provisions will reduce housing benefit for those social sector tenants of working age who are under-occupying their homes. The UK government has issued guidance to help local authority housing benefit departments apply the new rules: *Adjudication and operations circular HB/CTB A4/2012* (Department for Work and Pensions (DWP), July 2012).[8] The DWP has also issued a series of template documents and leaflets designed to assist local authorities with their support for housing benefit claimants who will be affected by the April 2013 changes: *Support for housing benefit claimants to meet any rent shortfall* (DWP, July 2012).[9]

Possession claims

The latest official statistics from the county courts indicate that over the three months April to June 2012:

- 15,050 mortgage possession claims were issued; and
- 36,190 landlord possession claims were issued (nearly 23,000 by social landlords).

The figures are accompanied by a useful analysis: *Statistics on mortgage and landlord possession actions in the county courts in England and Wales April to June 2012. Statistics bulletin* (Ministry of Justice, August 2012).[10]

Mortgage default

The Council of Mortgage Lenders (CML) has published its latest figures for properties repossessed by its members. They show that 8,500 properties were repossessed in April to June 2012: CML press release, 9 August 2012.[11] Two leading academic commentators have suggested that repossessions are likely to remain at relatively low levels as a result of low interest rates: *New forecast scenarios for UK mortgage arrears and possessions* (DCLG, August 2012).[12]

Rough sleeping

The UK government has published a second report from the Ministerial Working Group on Homelessness intended to give councils, charities, health services and the police a blueprint to work together to ensure that families and vulnerable people at risk of homelessness are offered help early, no matter which agency they turn to first: *Making every contact count* (DCLG, August 2012).[13]

Social housing tenancies in Scotland

On 1 August 2012, new provisions took effect in Scotland to prevent secure tenants from being subject to possession proceedings for rent arrears without pre-action procedures having been carefully followed. The Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 SI No 127 specifies the action a social landlord must take before beginning the process of recovering possession. The Scottish Secure Tenancies (Proceedings for Possession) (Confirmation of Compliance with Pre-Action Requirements) Regulations 2012 SI No 93 require certification from the landlord that such action has been taken before proceedings are issued.

Mobile home parks

The UK government has responded to the House of Commons Select Committee's recent report on park homes: *Park homes: government response to the House of Commons Communities and Local Government Committee's first report of session 2012–13* (Cm 8424, DCLG, August 2012).[14] The government acknowledged that while there are good site operators, who provide a decent

service to their resident home owners and operate within the law, malpractice is widespread. It agreed with the committee that the current legislation does not adequately protect residents and their assets, and fails to enable them to exercise fully their rights as home owners.

New home construction

The UK government has announced an initiative to stimulate development of housing on over 1,000 sites by allowing the developers to re-open 'old' (pre-April 2010) Town and Country Planning Act 1990 s106 planning agreements made with local councils: DCLG press notice, 13 August 2012.[15] It has issued a consultation paper, detailing its proposals: *Renegotiation of section 106 planning obligations: consultation* (DCLG, August 2012).[16] Responses should be made by 8 October 2012. There is an accompanying impact assessment of the proposals: *Renegotiation of section 106 planning obligations: impact assessment* (DCLG, August 2012).[17]

PRIVATE SECTOR

Rent Act 1977

■ Triplerose Ltd v Bonner and Rent Assessment Committee

[2012] EWHC 2306 (Admin), 29 May 2012

Mr and Mrs Bonner were Rent Act (RA) tenants paying a rent of £81 a week. Their landlords applied for registration of a fair rent, seeking £220 a week. The rent officer registered a fair rent of £155 per week. The landlords appealed to the Rent Assessment Committee (RAC). The RAC determined that the market rent would be £270 a week. In deciding that, it

> *... was particularly influenced by the advertised rent for a studio flat in the same road as the premises which had shared use of the kitchen. The rent for that property was advertised at £135. The committee therefore doubled that to give a market rent ...* (para 11).

From that figure, it 'made adjustments to reflect the market disadvantages' of the premises (for example, poor, unmodernised kitchen and bathroom, disrepair etc) and then made a deduction for scarcity (RA 1977 s70(2)), arriving at a fair rent of £97.20 per week (para 12). The landlords appealed, complaining that the RAC was wrong simply to double the rent for the advertised studio flat because Mr and Mrs Bonner rented three rooms. Furthermore, the comparable was not mentioned before or at the hearing and the landlords had no opportunity to consider it or to make any further inquiries because the address did not appear in the decision.

HHJ Mackie QC, sitting as a judge of the High Court, found that there was an error of law. Although the RAC 'was fully entitled to take account of its local knowledge and experience and to apply that to the assessment of rent' (para 19), in this case

> *... it took a 'comparable' about which it knew very little and simply doubled it. There is no sign that it did anything else* (para 20).

On the face of it, the reasons were a

> *... product not of skill, judgment and experience of local conditions but extrapolation from what may or may not have been a relevant and pertinent comparable. Even allowing for the usual allowances that need to be made, having regard to the informality of the committee process and the reasons identified in the cases, it [was] an error of law which cannot stand* (para 22).

It appears that the judge remitted the case to be heard by another committee.

■ Tolui v Rent Assessment Committee of the London Rent Assessment Panel

[2012] EWCA Civ 1065, 17 July 2012

Mr Tolui, a landlord, applied for the registration of a fair rent under RA 1977. He sought £360 per week. The RAC did not accept that that was an appropriate sum to register. After making adjustments for the condition of the property and for other matters such as scarcity, it reduced the uncapped fair rent to £195 per week. It then applied the cap provided by the Rent Acts (Maximum Fair Rent) Order 1999 SI No 6 to that uncapped sum so as to reduce the recoverable registered fair rent with effect from 21 January 2010 to £63.50. Mr Tolui appealed.

Wyn Williams J dismissed the appeal (*Tolui v London Rent Assessment Panel* [2011] EWHC 3636 (Admin); March 2012 *Legal Action* 23) on the basis, first, that the appeal was considerably out of time and, second, that the points raised on the appeal did not disclose an error of law in the RAC's reasoning.

Patten LJ refused a renewed application by Mr Tolui for permission to bring a second appeal. When he took into account the total period of time since the decision was made (ie, from 29 January 2010 to 28 April 2010 when Mr Tolui wrongly began a claim for judicial review) he was 'simply not persuaded that the judge's exercise of discretion was one which was flawed as a matter of law' (para 10). The decision 'was undoubtedly on the tough side' but there was no prospect of the court being persuaded that in taking the line he did, the judge could be said to have committed an error of law which would found a further appeal (para 10).

Procedure in possession proceedings

■ Spicer v Tuli

[2012] EWCA Civ 845, 29 May 2012

Law of Property Act 1925 receivers under a charge instructed solicitors to sell a flat. They discovered that Ms Tuli and her two daughters were in occupation. They brought a claim for possession against trespassers, as defined by Civil Procedure Rules (CPR) 55.1. Ms Tuli filed a defence alleging that she had been a tenant since 2003, under two successive tenancy agreements. A trial was fixed for 25 September 2008. There were delays in Ms Tuli giving disclosure. It was not until 24 September 2008 that the receivers' solicitors inspected the original documents on which Ms Tuli relied. In a subsequent telephone conversation, the receivers' solicitor told Ms Tuli's solicitor that 'he took the view that the tenancy agreements were not genuine and that he would seek every avenue to establish the truth' (para 3). He also said that more time was needed, bearing in mind the lateness of disclosure. The solicitors agreed that there would be 'a consent order withdrawing the proceedings' (para 3). Lewison LJ considered '[i]n that context, that could only have been understood as a withdrawal which did not preclude the further pursuit of the receivers' claim; in other words, a discontinuance' (para 3). On 25 September 2008, a signed consent order was placed before the court. It provided that the proceedings 'be dismissed' (para 5). Lewison LJ said that '[t]he underlying agreement … was that the proceedings would be withdrawn so as to give the receivers time to investigate the position' (para 5). In November 2009, the receivers began fresh proceedings claiming possession. Ms Tuli applied to strike out the new claim. She contended that the fact that the first action was dismissed rather than discontinued meant that any further claim for possession was an abuse of process and barred as a result of cause of action estoppel. District Judge Avent dismissed that application. HHJ Faber dismissed an appeal.

The Court of Appeal dismissed a second appeal. After referring to *Johnson v Gore Wood & Co* [2002] 2 AC 1, HL, Lewison LJ said that it was quite clear that the receivers had indicated they would pursue their claim against Ms Tuli. That was the basis of the suggestion that the action be withdrawn. The accident that the draft consent order substituted 'dismissed' for 'withdrawn', instead of 'discontinued', did not 'alter the broad

merits-based approach' (para 14). 'It would … be unconscionable to allow Ms Tuli to take advantage of what was plainly a technical error' (para 14). There was no abuse of process. The Court of Appeal also found that cause of action estoppel did not apply.

■ Poplar Housing and Regeneration Community Association Ltd v Byrne
UKSC 2012/0095,
26 July 2012
The Supreme Court has refused permission to appeal because the application did not raise a point of law. (The defendant's defence to a possession claim was struck out as a result of a failure to comply with directions. See May 2012 *Legal Action* 33.)

Long leases

Service charges

■ South Tyneside Council v Ciarlo
[2012] UKUT 247 (LC),
25 July 2012
The council was the landlord of 702 separate dwellings which it sold on long leases under the right to buy provisions. It sought to recover, by way of service charges, a proportion of the management fee it paid to its arm's length management organisation (ALMO) for the management of those properties by apportioning part of the fee it paid to the ALMO for managing all its housing stock. A Leasehold Valuation Tribunal (LVT) held that the council could not recover a flat rate across-the-board charge, but would have to show how much actual management fee was attributable to each property type within the 702 leaseholds.

The Upper Tribunal allowed the council's appeal. The formula adopted by the council had produced a 'careful and reasonable apportionment' of the global management costs across the entire stock and the service charges were recoverable (para 43).

■ Liverpool Quays Management Ltd v Moscardini
[2012] UKUT 244 (LC),
25 July 2012
A property management company sought to recover, through service charges, legal costs it had incurred in respect of legal advice about action that could be taken against the developer of its blocks of flats in relation to structural defects. The LVT held that no provision in the leases entitled the company to recover those charges.

The Upper Tribunal dismissed the company's appeal in respect of that item. The legal advice did not relate to matters of 'maintenance' or the 'running' of the property (which the lease did cover) but was about prospective action the leaseholders themselves might take against the developers.

■ Green v 180 Archway Road Management Co Ltd
[2012] UKUT 245 (LC),
23 July 2012
The lease of a flat obliged the tenant to pay 25 per cent of the sum for which the building was insured. The lease required that the insurance be taken out in the joint names of the landlord and tenant. The tenant disputed liability to pay insurance premiums for five years. The LVT held that she was liable.

The Upper Tribunal allowed an appeal. The evidence showed that in the four most recent years the landlord had taken the insurance only in its own name and in those circumstances could not recover under the lease.

■ R (Khan) v Upper Tribunal (Lands Chamber)
[2012] EWHC 2301 (Admin),
26 June 2012
The claimant held a long lease in a block of flats. A resident-owned management company incurred legal costs of £75,000 in earlier litigation against him. The claimant referred those costs to a costs judge for assessment and they were reduced to £25,000. The company then sought to recover the full £75,000 from all the residents by way of service charges. An LVT held that the lease entitled the company to recover its full costs. The Upper Tribunal refused permission to appeal from that decision. The claimant sought judicial review of the refusal of permission.

The High Court refused permission to bring a claim for judicial review. The £25,000 assessment simply capped what the company could recover from the paying party in the litigation. It did not prevent the company recovering its full costs through the service charges.

Selective licensing

Confiscation; proceeds of crime

■ Sumal & Sons (Properties) Ltd v Newham LBC
[2012] EWCA Crim 1840,
8 August 2012
Sumal was the owner of a property in Newham. In March 2010, Newham council introduced a selective licensing scheme under HA 2004 Part 3. There was a delay on Sumal's part before it obtained a licence. Newham prosecuted Sumal for being the owner of rented property without a licence contrary to HA 2004 s95(1) in respect of the unlicensed period. Sumal was found guilty. Magistrates committed the case to the Crown Court for sentence, where the company was fined £2,000. The court also made a confiscation order in the sum of £6,450.83, under Proceeds of Crime Act 2002 s70. The company was also ordered to pay prosecution costs of £3,821.96. Sumal appealed.

The Court of Appeal rejected an argument that the case should not have been referred to the Crown Court. It upheld the fine in full (providing useful remarks in support of significant fines for such offences). However, it allowed the appeal against the confiscation order. Confiscation orders are not available for offences under HA 2004 s95. The rent was not obtained as a result of or in connection with criminal conduct, but was payable under the terms of the tenancy agreement.

Safety offences and prohibition notices

■ Portsmouth City Council v JL Homes Ltd
Portsmouth Crown Court,
10 August 2012
Following receipt of complaints from students renting a house from the defendant company, a council inspection found: one bedroom was too small to be used as sleeping accommodation; three bedsit rooms were too small to be used for sleeping and cooking; the cooking facilities were substandard; and the three bedsits and the cooking facilities could only be reached by an outside metal staircase. On a prosecution brought by the council, the company denied failing to comply with two housing prohibition orders and failing to provide the council with a copy of a tenancy agreement. It was found guilty at the magistrates' court on all three counts and fined £3,000 for each offence with costs of almost £3,000.

The company appealed against one conviction for failing to comply with a housing prohibition order; the conviction for failing to provide the tenancy agreement; and all three fines. Portsmouth Crown Court dismissed the appeals and upheld the convictions and fines. Costs were increased to £4,500.

■ Health and Safety Executive v Ahmid and Basharat
Sheffield Magistrates' Court,
6 August 2012
The defendants were husband and wife. They were private landlords. They let a property in 2009. Some years later, following an inspection by a council officer, a gas safety investigator was called in and found serious faults with appliances and fittings throughout the property. He also found evidence of carbon monoxide fumes and decommissioned the boiler, cooker and gas fires classifying them as 'immediately dangerous'. The appliances and flues had not been checked annually by a registered gas engineer, they had not been maintained in a safe condition as required by law, and the tenant had never been given a copy of the gas safety record.

Following guilty pleas in a prosecution brought by the Health and Safety Executive

(HSE), both received suspended sentence orders with three months' imprisonment suspended for 12 months. Mr Ahmid was required to undertake 150 hours of unpaid work and ordered to pay £2,500 towards prosecution costs. Mrs Basharat was required to undertake 200 hours of unpaid work and ordered to pay £5,000 in costs.

■ **Health and Safety Executive v MacDonald**
Westminster Magistrates' Court, 15 August 2012
The defendant was a private landlord. His tenant, her partner and their young daughter inhaled large quantities of carbon monoxide leaking from a faulty gas boiler in the flat. They were saved from further harm after a carbon monoxide alarm sounded in a flat above, but they needed hospital treatment. The defendant pleaded guilty to failing to ensure a gas fitting was in a safe condition and failure to carry out an annual inspection.

He received a suspended sentence order with six months' imprisonment, suspended for two years, and a requirement that he carry out 200 hours of unpaid work. He was ordered to pay £8,211 in costs.

■ **Vaddaram v East Lindsey DC**
[2012] UKUT 194 (LC), 13 August 2012
The council served a prohibition notice and an improvement notice in respect of a flat on the basis that there were inadequate means of escape from any fire and there was an increased risk of fire as the tenant had to use portable electric heaters. The landlord's appeal against the prohibition order was dismissed by a residential property tribunal. He appealed on the grounds that: he had undertaken further works; the premises met building regulations requirements; and the Local Authorities Co-ordinators of Regulatory Services (LACORS) guidance on fire safety (which had not been before the tribunal) was satisfied.

The Upper Tribunal conducted a rehearing and allowed the appeal with costs. The LACORS guidance was highly material and should have been put before the tribunal by the council.

■ **Oxfordshire CC v Lei**
Oxford Magistrates' Court, 20 July 2012
The fire authority served a prohibition notice on the defendant landlord preventing him from allowing people to sleep on the top floor of his house. He ignored the notice and continued to house people on the top floor. He pleaded guilty to 12 charges made up of three different offences, committed on four separate occasions. These included failure to comply with the prohibition notice, as well as on-going failures to provide an adequate fire detection system, an alarm system or a safe means of escape, such that people were at risk of death or serious injury if there were a fire.

He was fined £2,250 and ordered to pay costs of £1,300.

■ **Health and Safety Executive v Jamil**
Central Criminal Court, 20 July 2012
A self-employed builder undertook building work as part of which he enclosed the flue ventilating a boiler. The carbon monoxide generated by the boiler caused the deaths of an elderly couple residing in the house. He pleaded guilty to breaching regulation 8(1) of the Gas Safety (Installation and Use) Regulations 1998 SI No 2451.

He was fined £75,000 and ordered to pay £25,452 in costs, in addition to a 12-month community order requiring him to undertake 150 hours of unpaid work.

■ **Liverpool City Council v Kassim**
[2012] UKUT 169 (LC), 11 July 2012
The council served a prohibition notice to forbid the use of residential accommodation on the grounds that the heating system provided could not prevent a Housing Health and Safety Rating System (HHSRS) hazard arising from 'cold'. The landlord successfully appealed to a residential property tribunal which held that the affordability of the heating system to a tenant was not a relevant consideration.

The Upper Tribunal set aside that decision and remitted the case for rehearing. The council applied for its costs. The Upper Tribunal made no order as to costs.

■ **Oadby and Wigston BC v Rose**
Leicester Magistrates' Court, 19 July 2012
The defendant landlord let a property which was in an incomplete and unsafe condition. On inspection, there were found to be two HHSRS category 1 hazards and two category 2 hazards under HA 2004 Part 1.

On a prosecution brought by the council, he was fined £1,500 and ordered to pay £2,000 costs.

■ **Southend BC v Sandhu**
Southend Magistrates' Court, 11 July 2012
The defendant was the landlord of a three-storey property with one ground floor self-contained flat and nine bedsits sharing one bathroom. He was convicted of running an unlicensed house in multiple occupation (HMO).

He was fined £1,500 plus £270 costs.

■ **Reading BC v Sheikh and Jarvis Properties**
Reading Magistrates' Court, 9 July 2012
The first defendant was a private landlord of a registered HMO in the council's area. The second defendant was the landlord's managing agent for the property. An inspection by the council's officers, made following a resident's complaint, revealed that:
- 11 people were living at the property instead of the permitted seven;
- the fire alarm system was not working;
- other fire safety provisions such as fire doors and emergency lights were not being maintained;
- fire safety notices were incorrectly positioned and did not direct occupiers to an exit via a safe route;
- an internal shower room extractor fan was not working and electrical wires were exposed; and
- the shower and the toilet in the top-floor shower room were blocked up due to a failed macerator unit, resulting in foul water filling up both the shower tray and toilet and leaking through to the ceiling below.

The agents were fined over £20,000 for failing to manage properly the HMO, failing to comply with health and safety conditions in the HMO licence and failing to provide information. The landlord was fined £500 with legal costs of £200 after pleading guilty to failing to provide requested information.

Planning enforcement

■ **Searle v Secretary of State for Communities and Local Government**
[2012] EWHC 2269 (Admin), 16 August 2012
The claimants were Romany Gypsies who had bought agricultural land with stabling for their horses. They moved their mobile homes onto the land and lived in them without planning permission. The council issued enforcement notices requiring removal of the mobile homes. The claimants' appeals to a planning inspector were dismissed.

Edwards-Stuart J dismissed a further appeal because the inspector had made no error of law. However, the judge said that: 'It is clear that the council must pursue the problem of finding alternative and suitable sites for the claimants and other Travellers with much more vigour than it has done to date' (para 62).

■ **Hillingdon LBC v Brar**
Uxbridge Magistrates' Court, 20 July 2012
The council served an enforcement notice, which was upheld on appeal in September 2010, requiring the defendant landlord to restore an outbuilding (which he was letting) to its original use as a garage and to restore the subdivided main house to a single home.

On a prosecution for failure to comply with either requirement, the defendant pleaded guilty. He was fined £10,000 and ordered to pay £4,300 costs.

■ **Hillingdon LBC v Uddin**

Uxbridge Magistrates' Court,
3 July 2012

The defendant was a private landlord. He was prosecuted by the council for two offences. First, he had rented out a garden shed as living accommodation in breach of an enforcement notice. Second, he had failed to comply with the conditions of an HMO licence on another of his properties.

He was fined £6,600 for failing to comply with a planning enforcement notice ordering him to stop using the outbuilding as accommodation and £5,400 for breaching an HMO licence. He was ordered to pay costs of £3,377.

■ **Hillingdon LBC v Sodha**

Uxbridge Magistrates' Court,
3 July 2012

The defendant was a private landlord. He was prosecuted by the council for breach of planning controls by converting a house into seven self-contained flats and by renting a shed as living accommodation.

He was fined £3,500 and ordered to pay costs of £2,079.

HOUSING ALLOCATION

■ **Basildon BC v Limbani**

Basildon Magistrates' Court,
10 August 2012

The defendant applied to the council for an allocation of social housing accommodation (HA 1996 Part 6). The council accepted the application and nominated her to a housing association which granted her a tenancy. The council later discovered that in her application she had not declared that she owned a property that was registered in her name. She paid the mortgage on that property and rented it out to tenants.

The council brought a prosecution on two charges under the Fraud Act 2006 and a further charge under the Forgery and Counterfeiting Act 1981. After a trial, the defendant was convicted and sentenced to eight months' imprisonment.

HOMELESSNESS

Local Government Ombudsman *Complaints*

■ **Kent CC and Dover DC**

09 017 510 and 09 017 512,
31 July 2012

A homeless 16-year-old boy, who had previously been in care and had drug-related issues, applied to Dover DC for homelessness assistance (HA 1996 Part 7) in January 2009 and again in June 2009. The council should have accepted the applications and applied a joint protocol agreed with Kent CC for dealing with homeless children in need.

The Local Government Ombudsman was critical of Dover's failure to comply with its statutory obligations and found that:

■ In January 2009 the Dover housing officer should have accepted that the complainant was homeless and should have provided suitable temporary accommodation. The failure to do so was contrary to law and hence was maladministration. The housing officer did not follow the joint protocol and did not contact Kent's children's services. This was also maladministration.

■ In June 2009 a different and specialist housing officer for Dover DC did not accept that the complainant was homeless. This was again contrary to law and hence was maladministration. She took a month before contacting social services. This was contrary to the joint protocol and was maladministration.

■ Dover DC did not give the complainant written decisions about his homelessness and he could not, therefore, ask for a review or appeal. This was contrary to law and hence was maladministration.

■ Dover DC twice offered the complainant to bed and breakfast accommodation. This was contrary to statutory guidance, contrary to what the council stated in its own policy, and was maladministration.

■ Dover DC did not help the complainant join its housing register for social housing until June 2009. It offered him a flat two months later. The failure to help him register in January 2009 compounded the maladministration of refusing to treat him as homeless.

■ After offering a flat, Dover DC was obdurate in refusing – for four weeks – to accept Kent as a guarantor. There was no evidence that it considered other options or the impact of its position on a young man who was still a child, living alone in a tent and suffering physical and mental ill health as a result. It only changed its position when Shelter intervened and threatened legal action.

The Ombudsman recommended that the councils between them pay £10,100 compensation.

1 Available at: http://wales.gov.uk/docs/desh/publications/120813allocateaccommodationen.pdf.
2 Available at: http://wales.gov.uk/docs/desh/publications/120813housingrsl00312en.doc.
3 Available at: www.communities.gov.uk/documents/statistics/pdf/2199659.pdf.
4 Available at: www.communities.gov.uk/documents/housing/pdf/2200485.pdf.
5 Available at: http://england.shelter.org.uk/__data/assets/pdf_file/0003/578109/Local_decisions_on_tenure_reform_full.pdf.
6 Available at: http://england.shelter.org.uk/__data/assets/pdf_file/0004/578110/Local_decisions_executive_summary.pdf.
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8 Available at: www.dwp.gov.uk/docs/a4-2012.pdf.
9 Available at: www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/publicity-materials/rent-shortfall/.
10 Available at: www.justice.gov.uk/downloads/statistics/civiljustice/mortgage-landlord-2012-q1/mortgage-landlord-possession-stats-q2-2012.pdf.
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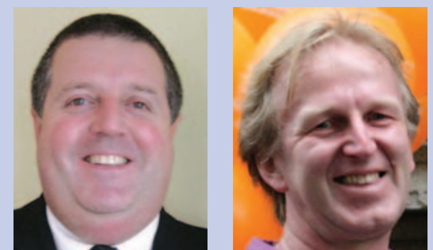
16 Available at: www.communities.gov.uk/documents/planningandbuilding/pdf/2196058.pdf.
17 Available at: www.communities.gov.uk/documents/planningandbuilding/pdf/2196098.pdf.



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