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 and anti-social behaviour

The Anti-social Behaviour, Crime and Policing Act 2014 received royal assent on 13 March 2014.[1] It will be brought into force in stages by commencement orders later this year. Its provisions will introduce new tools and powers for local authorities, the police and social landlords relating to housing and anti-social behaviour.

The Welsh Government has published a major policy and practice review on tackling anti-social behaviour: *Wales anti-social behaviour: policy and practice review* (February 2014).[2]

In Scotland, a new practice briefing has been published for social landlords on tackling anti-social behaviour: *Tackling anti-social behaviour in Scotland: challenges and responses* (Chartered Institute of Housing (CIH) (Scotland), February 2014).[3]

Homelessness

Since November 2012 it has been possible for local housing authorities in England to discharge the main housing duty owed to the homeless by making an offer of private rented accommodation. A new study has been published exploring the long-term outcomes for vulnerable homeless households moved into the private rented sector: *A roof over my head: the final report of the Sustain project* (Crisis and Shelter, February 2014).[4] Households were reviewed for 19 months after placement and it was found that poor housing conditions and poor relationships with landlords led to adverse effects for many households. The report makes recommendations to improve the private rented sector. Its publication prompted the housing minister to write to the leaders of several local authorities in England to express his concern 'that there may be instances where a local authority is placing a homeless household in a property that contains … hazards'.[5]

The latest statistics on street homelessness in England show that the number sleeping rough has increased by 37 per cent since 2010: *Rough sleeping statistics England – autumn 2013: official statistics* (Department for Communities and Local Government (DCLG), February 2014).[6] A new report shows that around seven in ten (67 per cent) rough sleepers across England are now helped off the streets after the first night that they were found to be sleeping rough, and nearly eight in ten (78 per cent) of these do not return to the streets after receiving help: *No second night out across England* (Homeless Link, February 2014).[7]

The latest figures on statutory homelessness services provided by local housing authorities in England show that 56,930 households were in temporary accommodation on 31 December 2013, seven per cent higher than at the same date in 2012: *Statutory homelessness: October to December quarter 2013 England* (DCLG, March 2014).[8]

In Wales a new toolkit has been published focusing on 'housing options interviews' and the actions that councils can take to help someone avoid homelessness: *Working towards 2015: adopting a housing solutions approach to homelessness* (Welsh Local Government Association, January 2014).[9]

Possession claims

The latest court statistics on possession claims brought by landlords in England and Wales indicate that 9,607 tenants were actually evicted by county court bailiffs, acting pursuant to orders made in social and private landlords' possession claims, in a period of only 13 weeks: *Mortgage and landlord possession statistics quarterly: October to December 2013* (Ministry of Justice, February 2014).[10]

On 27 January 2014 legal aid funding for the defence of housing possession cases with 'borderline' merit was withdrawn. The UK government has responded to criticism from the Joint Committee on Human Rights about the abolition: *Government response to the Joint Committee on Human Rights: the implications for access to justice of the government's proposals to reform legal aid* (February 2014).[11] The response explains that the impact of the change cannot be avoided by seeking legal aid through the 'exceptional funding' facility, as that is subject to a 'prospects of success' test which a borderline case would not pass.

Social housing fraud

The Prevention of Social Housing Fraud Act 2013 contains powers for the secretary of state to make regulations enabling local authorities to compel certain agencies to provide them with detailed information about tenancy fraud suspects. The draft Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014 would cover banks, building societies, suppliers of credit, water and sewerage undertakers, providers of gas and electricity services and telecommunications companies. They require the approval of both Houses of Parliament. Their intended scope is set out in an Explanatory memorandum[12] and in a Privacy impact assessment (DCLG, February 2014).[13]

Social housing

The regulator of social housing in England, the Regulatory Committee and of the Homes and Communities Agency, has published three regulatory notices that it has served on major social landlords in respect of concerns relating to gas safety inspections of tenanted premises.[14]

A new briefing paper seeks to support housing landlords wishing to pioneer new ways of letting properties and reviews current and emerging practice in use of fixed term rather than periodic tenancies: *New approaches to fixed term tenancies* (CIH, February 2014).[15]

A new report highlights areas in which social landlords should improve their compliance with the Data Protection Act 1998 in respect of tenant and applicant data: *Findings from ICO advisory visits to social housing organisations* (Information Commissioner's Office, February 2014).[16]

The UK government has published new non-statutory guidance designed to encourage social landlords in England to do more to promote mutual exchange in order to encourage tenant mobility: *Promoting mobility through mutual exchange: realising the potential* (DCLG, February 2014).[17] The guidance develops the findings of the research report *Promoting mobility through mutual exchange: learning lessons from the housing mobility demonstration projects* (DCLG, February 2014).[18]

Another recently published report considers the impact that recent changes to welfare benefit arrangements are having on rent collection by social landlords: *Impacts of welfare reforms on the social rented sector:*

report of a Welsh Government Task and Finish Group (Welsh Government, February 2014).[19]

Private rented sector

The UK government has recently concluded a consultation on proposed reforms to the law relating to the private rented sector in England, including a proposed repeal of Greater London Powers Act 1973 s25 (which provides that the 'use as temporary sleeping accommodation of any residential premises in Greater London involves a material change of use of the premises' and therefore requires planning permission): *Review of property conditions in the private rented sector* (DCLG, February 2014).[20]

The National Landlords Association has launched a media campaign against wider use by local councils of the selective licensing powers contained in the Housing Act (HA) 2004.[21] A useful free briefing note sets out the policies behind the use of those licensing powers: *Selective licensing of privately rented housing (England & Wales)* (House of Commons Library, February 2014).[22]

Housing and human rights

Following her mission to the UK in 2013, the UN Special Rapporteur on adequate housing has presented her report and recommendations to the UN General Assembly about the housing situation in this country: *Mission to the United Kingdom of Great Britain and Northern Ireland* (UN, December 2013).[23] Among other housing measures she recommended that the UK government should:

- increase regulation and enhance information and accountability in relation to the private rented sector;
- adopt regulatory tenancy protections, including minimum length of contracts, restraints on rent increases and strict limits on eviction;
- encourage the use of standardised human rights-compliant rental contracts;
- enhance mechanisms of registration of landlords and letting agents; and
- establish clear accountability mechanisms to eliminate discrimination in the private rented sector.

The report received a dismissive response from the UK housing minister.[24]

HUMAN RIGHTS

Article 1 of Protocol No 1

■ Bittó v Slovakia

App No 30255/09,
28 January 2014

Twenty-one owners or co-owners of residential buildings in Bratislava and Trnava complained that a rent-control scheme, which applied pursuant to the Price Act 1996, prevented them from freely negotiating levels of rent for their flats. Furthermore, the termination of the leases of their flats was conditional on them providing the tenants with adequate alternative accommodation. They argued that the rent to which they were entitled did not cover the cost of maintaining their properties and was disproportionately low compared with similar flats to which the rent-control scheme did not apply. They alleged breaches of article 1 of Protocol No 1.

The European Court of Human Rights (ECtHR) found that there had been breaches of article 1 of Protocol No 1. The legislation governing the rent-control scheme amounted to a lawful interference with the landlords' rights that pursued a legitimate social policy aim. The control of use of the properties had therefore been 'in accordance with the general interest' as required by the second paragraph of article 1 of Protocol No 1.

As to the proportionality of the interference, the court first observed that, in the context in which the rent-control scheme had been introduced, the decision about how best to reconcile the competing interests at stake involved complex social, economic and political issues which domestic authorities were best placed to know and assess. Although both governmental policy and legislative amendments planned gradually to increase the maximum rent chargeable and, at a later stage, set a framework and time-limit for its termination, it nevertheless appeared that the rental market in Slovakia had remained underdeveloped and that there had been shortcomings in pursuing the proclaimed policy.

As for the actual impact of the rent-control scheme, the only information available to the court concerned the difference between the maximum rent permissible under the scheme and the market rental value of the flats. That information indicated that, despite several increases after 2000, the amount of controlled rent that the landlords were entitled to charge remained considerably lower than the rent for similar housing in respect of which the rent-control scheme did not apply. The interests of the landlords, 'including their entitlement to derive profit from their property', had therefore not been met (para 113). The legitimate interests of the community called for a fair distribution of the social and financial burden involved in the transformation and reform of the country's housing supply. That burden could not be placed on one particular social group, however important the interests of the other group or the community as a whole might be. The Slovak authorities had failed to strike the requisite fair balance between the general interests of the community and the protection of the landlords' right of property. The court therefore invited Slovakia to introduce, as soon as possible, a specific and clearly regulated compensatory remedy in order to provide genuine effective relief for the breaches found.

Article 8

■ Zabor v Poland

App No 33690/06,
7 January 2014

Mr Zabor's mother was a council tenant. She died. He claimed that he had a right to succeed to the tenancy. His brother, who was in occupation, refused to move out. Mr Zabor took legal proceedings and was recognised by the domestic courts as a successor to the tenancy agreement. Subsequently, the council also acknowledged this status, but Mr Zabor was not able to move back in. He complained of breach of his article 8 right to respect for his home.

The ECtHR dismissed the claim. Mr Zabor had moved out of the flat in 1980 and had not been living in it for more than 30 years with the exception, at most, of short, occasional stays. The court held that he did not have sufficient and continuous links with the flat, which therefore could not be classified as Mr Zabor's 'home' within the meaning of article 8.

■ Medvedev v Russia

App No 75737/13,
10 January 2014

A council tenant died. A man produced false documents to the council showing him as the deceased's spouse. The tenancy was put into his name and he later bought the flat from the council. The fraud was then discovered and, in 2005, a court annulled the transfer of title to the man. In 2011, he was still in occupation. He sold the flat. Later in 2011 it was resold to Mr Medvedev who knew nothing of the background and lived in the flat as his home. The council sought and obtained an order for annulment of the sale and for possession. Mr Medvedev was evicted. He complained to the ECtHR.

The court has asked the parties the following questions (among others):

- Has there been an interference with the applicant's right to respect for his home, within the meaning of article 8(1) of the European Convention on Human Rights ('the convention')?
- If so, was that interference in accordance with the law and necessary in terms of article 8(2)?

The court has asked the same question in ten other cases brought against Russia on similar facts.

POSSESSION CLAIMS

Assured shorthold tenants: Ground 8

■ Masih v Yousaf

[2014] EWCA Civ 234, 6 February 2014

Ms Masih was an assured shorthold tenant. She accrued rent arrears. Mr Yousaf, her landlord, served a Housing Act 1988 s8 notice seeking possession, relying on Schedule 2 Ground 8. Under the heading 'Particulars', the notice stated: 'The tenant owes £1,680 which represents three months' rent.' It did not recite the precise wording of Ground 8, omitting the words 'rent means rent lawfully due from the tenant'. District Judge Ayers made a mandatory possession order. Ms Masih applied to set aside the possession order, arguing that a strict approach to the prescribed wording was required because Ground 8 was a mandatory ground for possession. District Judge Flavey concluded that he did not have power to do so. HHJ Davies dismissed Ms Masih's appeal.

The appeal was dismissed. The notice gave sufficient information to enable the tenant to know what she had to do in order to avoid a possession order being made. The approach in *Mountain v Hastings* (1993) 25 HLR 427, CA applied equally to mandatory and discretionary grounds for possession.

Relief from sanctions

■ Circle Thirty Three Housing Trust Ltd v Nelson

[2014] EWCA Civ 106, 27 January 2014

Circle 33 issued a possession claim against Ms Nelson, one of its tenants, her daughter and her son-in-law. It alleged that Ms Nelson was not occupying the premises as her principal home and that she had made unauthorised alterations. Defences were served denying these allegations. Circle 33 obtained an order requiring Ms Nelson to disclose her driving licence, utility bills and credit card statements. There was only partial compliance. Later, HHJ Saggerson made an unless order. In default of disclosure of her bank statements, her defence was to be struck out and the claim placed in the undefended possession list. The order was not complied with. Two and a half weeks later, during a telephone hearing, Ms Nelson's solicitor gave HHJ Collender QC what the Court of Appeal described as 'a completely muddled picture' (para 9) and 'a plainly false impression of the facts' (para 14). He made a possession order.

The Court of Appeal received fresh evidence and allowed Ms Nelson's appeal. Ms Nelson had in fact contacted her bank five times to obtain the documents. The failure to produce the statements was not her fault, but the bank's. The fresh evidence meant that the Court of Appeal was in a position to exercise the discretion afresh. It granted relief from sanctions under Civil Procedure Rule (CPR) 3.9 and restored the defence.

Housing co-operatives

■ Sterling v Cyron Housing Co-operative Limited

[2013] EWHC 4445 (QB), 10 May 2013

Cyron granted Ms Sterling a contractual tenancy in February 1989. In December 2009, Cyron served a notice to quit. It issued a claim for possession. Ms Sterling contended that the notice to quit was invalid as it had not been authorised in accordance with Cyron's rules and constitution and was signed by an employee, not an officer. In March 2011, following the Court of Appeal decision in *Mexfield Housing Co-operative Limited v Berrisford* [2010] EWCA Civ 811; [2011] 1 Ch 244, HHJ Copley made a possession order. In April 2011, he discovered that *Mexfield* was due to be heard in the Supreme Court. He stayed execution of the possession order. In February 2012, after the Supreme Court in *Mexfield* had overturned the Court of Appeal decision ([2011] UKSC 52), HHJ Copley held that he could not set aside his final order under CPR 3.1(7) and that the only route to challenge his order was to appeal. Spencer J then gave permission to appeal out of time.

Slade J allowed the appeal. She noted that: 'It is well established that the decision of a higher court overturning that of a lower court is declaratory of the law as it always has been' (para 13). The issue in the case was therefore whether or not the notice to quit was valid in accordance with Cyron's rules. The burden was on Cyron to establish that a valid notice to quit had been given. Its case now depended on compliance with the rules. That compliance should be fully investigated at a hearing. That would require evidence. The order for possession was set aside and the claim remitted to the county court for determination.

HARASSMENT AND DISREPAIR

■ Premier Property Management v Adia

Bromley County Court, 19 December 2013[25]

Mr Adia was the assured shorthold tenant of Premier Property Management between October 2011 and November 2012. The annual rent was £9,360. He defended a claim for rent arrears and counter-claimed for damages for breach of repairing covenant, assault, and breach of covenant of quiet enjoyment. The claimant did not file any acknowledgment of service to the Part 20 claim and so judgment in default was entered. The claimant did not attend the assessment of damages hearing.

The claim for damages for breach of repairing covenant included a leak through the kitchen ceiling. After a few months, the kitchen ceiling began to crumble and crack, and there were pools of water on the floor. The ceiling had been replastered after eight months, but the leak continued. There was also a defective drain in the side passage of the ground floor flat, so that the passage flooded constantly. In addition, there was an infestation of mice, gaining access through holes to the exterior. All of those defects were present throughout the whole of the tenancy. The shower did not work properly for the first nine months of the tenancy.

Furthermore, while Mr Adia was away from the property for around one week, leaving his niece in occupation, the claimant changed the lock. When Mr Adia returned and went to the agents' offices to ask about the key, one of the managers started shouting and swearing at him. Another member of staff punched him hard in the face, knocking off his glasses, while a third member of staff blocked the exit to the room. The key was not returned. That night, Mr Adia managed to find cheap hotel accommodation. The following day, he instructed solicitors, who spoke to the claimant's agents. They did not agree to reinstate him. He could not afford to pay for a hotel for a second night and wandered the streets until he went to work at 2 am. On the third day, the agents agreed to give him the key, but when he went to the office, he was told to sign a document saying that he was in breach of his tenancy agreement. He refused to do so. After his solicitor had telephoned again, Mr Adia was told he could collect the key at 7 pm. When he collected the key and tried to open his door, he discovered that it was the wrong key. He managed to stay the night with a friend. On the fourth day, the agents again agreed that he could collect a key, but when he did so, he was told to wait. After about two hours, he was still not given a key, but he was threatened by the manager gesturing towards him, with his hands in the shape of a gun, saying 'I'll kill you'. He was very frightened and reported it to the police. Eventually, after his solicitors had intervened again, the agents agreed to deliver the new key to the solicitors' office. When Mr Adia was able to get back into his flat, he discovered that £1,400 cash plus two laptops had been removed.

District Judge Wilkinson described both elements of the Part 20 claim as 'appalling conduct'. District Judge Wilkinson awarded:

■ 40 per cent diminution in value for breach of

repairing obligations, excluding the shower: £3,744 and £1,000 per annum for the defective shower, an additional £637, total: £4,381;
- £1,500 for the assault and threat to kill;
- general damages of £200 for the first night in a hotel and £300 for the second and third nights;
- aggravated damages of £2,500; and
- exemplary damages at £2,000.

He also awarded the whole of the special damages claim plus interest at 2.5 per cent.

HOUSING BENEFIT AND THIRD PARTY DEBT ORDERS

■ Ferrera v Hardy

[2013] EWHC 4164 (Ch), 2 October 2013

In 2005, Mr Hardy obtained a money judgment against Mr Ferrera. The sum due was not paid. In 2011, Mr Hardy applied for a third party debt order founded on that judgment debt against Liverpool City Council in respect of housing benefit which was due to be paid to Mr Ferrera as agent for landlords who were resident outside the UK. The order was made in the sum of £7,281.20, but Liverpool applied in July 2012 to set it aside. It was argued that Mr Ferrera was trustee for the owners, not agent. District Judge Wright directed the city council to pay £650 (which Mr Ferrera was entitled to receive personally by way of his fees) to Mr Hardy, but ordered the balance that was due to the landlords, rather than to Mr Ferrera personally, to be paid to the new agent acting for the landlords. That money belonged to the landlords, not to Mr Ferrera. Mr Hardy appealed.

HHJ Hodge QC dismissed the appeal. Although there was 'no detailed formal written agreement regulating the relationship' between the landlords and Mr Ferrera, the monies were derived from rents payable in respect of a property owned by the landlords. It was 'appropriate to treat [them as] the subject of a trust relationship between Mr Ferrera, as agent, and the owners of the property, as its landlords' (para 18).

Permission to appeal to the Court of Appeal has been granted.

LONG LEASES

Service charges and rent

■ Morshead Mansions Limited v Di Marco

[2014] EWCA Civ 96, 12 February 2014

Mr Di Marco was a long lessee in a block comprising 104 flats. He had a long-running dispute about service charges (see, for example, *Morshead Mansions Ltd v Di Marco* [2008] EWCA Civ 1371). Morshead issued two new claims for rent and service charges. Mr Di Marco counterclaimed, challenging the validity and propriety of the demands and the use of the money raised without complying with the provisions of Landlord and Tenant Act 1985 ss21 (request for summary of relevant costs) and 22 (request to inspect supporting accounts). He sought mandatory injunctions under those sections. HHJ Hand QC struck out the counterclaims. Mr Di Marco appealed. Mann J held that parliament had intended the duties to be enforceable in the same manner as other civil duties and allowed Mr Di Marco's appeal in that respect ([2013] EWHC 1068 (Ch); June 2013 *Legal Action* 34).

The Court of Appeal allowed Morshead's subsequent appeal. There is no power to grant a mandatory injunction to require a landlord to comply with its obligations under sections 21 and 22. Those sections were themselves re-enactments of earlier provisions contained in Housing Finance Act 1972 which had not provided for any injunctive relief. Given that history, it was unlikely that parliament intended there to be a civil remedy. Where such remedies existed, parliament generally made that clear.

■ Furlonger v Pettorelli Lalatta

[2014] EWHC 37 (Ch), 24 January 2014

Leases of several flats in a single building provided for upward-only rent reviews every ten years but they included a proviso that the rent could not exceed two-thirds of the ratable value. The system of domestic rating had since fallen into abeyance. The landlord brought a claim seeking to establish a right to a higher rent.

The High Court held that the machinery needed to operate the proviso in the lease had indeed broken down with the effect that there was no operative cap on the rent. However, the court considered it appropriate to devise 'alternative machinery' intended to produce the same result as the initially intended effect of the proviso.

HOUSING ALLOCATION

■ R (Podkowka) v Women's Pioneer Housing Ltd

[2014] EWCA Civ 208, 5 February 2014

The claimant was the tenant of a one-bedroom flat. She wanted a transfer to a two-bedroom flat on medical grounds. In 2008, her landlord considered but rejected that application. In 2012, the claimant applied for a housing allocation assessment by the local council and, later in 2012, her advisers asked the landlord about that application. The landlord denied having received any application itself but indicated that any transfer application made to it was unlikely to be successful given extant rent arrears. The claimant sought a judicial review.

HHJ Allan Gore QC refused permission to bring the claim. The last actual transfer application to the landlord had been made and determined in 2008 and any challenge to that was now out of time. The most recent application had been made to the council not the landlord. That application was not the subject of the challenge. The landlord's recent indication of its own policy did not amount to any decision on any application.

Maurice Kay LJ refused a renewed application for permission to appeal. The claim was simply misconceived.

■ R v Bundu and others

Woolwich Crown Court, 20 March 2014[26]

Mr Bundu was a caseworker in Southwark Council's homeless persons department. Over a three-year period, he created and used false identities and false personal data to give his friends and family members characteristics that would make them 'high priority' for council housing. He pretended that single women were pregnant, helping their applications gain priority. He used false documents to support the fictional applications, and then allocated homes to those who were his friends and family.

Over time, he then extended his operation to others, who paid him for securing them a home. The frauds were detected as part of the council's data-matching exercise to identify social housing fraud. After hearing the prosecution case against him, and against other members of his family, the defendant changed his plea to guilty. He was sentenced to four years' imprisonment.

HOMELESSNESS

Intentional homelessness

■ Woods v Westminster City Council

Central London County Court, 2 March 2014[27]

In 2009, the council accepted that it owed Ms Woods the main housing duty under HA 1996 s193. It provided her with temporary accommodation on a non-secure tenancy. In 2010 and 2011 she committed two unrelated criminal offences and, in October 2011, was given a 15-month custodial sentence. Her housing benefit stopped and arrears accrued. In January 2012, at the council's instigation, she withdrew her homelessness application and ended the tenancy. In March 2012, her sentence was reduced to eight months and she

was immediately released. On her new application for homelessness assistance, the council decided that she had become homeless intentionally. That decision was upheld on review but was later quashed in a county court appeal. A further review led to a finding that her homelessness had been caused by her deliberate act (the criminal offences) from which the loss of her home had flowed.

HHJ Walden-Smith allowed an appeal and quashed the new review decision. The reviewing officer had failed to consider properly the circumstances under which the tenancy had been given up, particularly as Ms Woods would have been entitled to, and should have received, housing benefit for much of the time that she was in custody. The true question was whether it was the surrender of the tenancy that had been the real or effective cause of the homelessness rather than the earlier offending.

Accommodation pending appeal

■ R (Nzolameso) v Westminster City Council

[2014] EWHC 409 (Admin), 3 February 2014

The council accepted that it owed a homeless applicant the main housing duty under HA 1996 s193. It made temporary accommodation available to her in Milton Keynes in performance of that duty. Despite a warning given in accordance with HA 1996 s193(5), she refused to take up that offer and the council treated its duty as ended. On a review, the council concluded that the offered accommodation had been suitable. HHJ Hornby dismissed an appeal from the review decision. The applicant applied to the Court of Appeal for permission to bring a second appeal on the basis that the council could not show that it was not 'reasonably practicable' to house the claimant in its area: HA 1996 s208(1). While that application awaited determination, she applied to the council to exercise its discretion to accommodate her pending the Court of Appeal's decision: HA 1996 s204(4)(b). When it refused to do so, she sought a judicial review.

Mitting J granted permission for the claim to be made but dismissed it. He held that the council had been entitled to take account of its own legal advice about the lack of prospects of success for the applicant in the appeal and it had not reached an irrational decision. He said:

… it seems to me to be inescapable that when deciding whether or not to exercise the power to provide accommodation, the local authority should form a view about the likely prospects of success on appeal, including the question whether or not permission to appeal will be granted in the first place. That is what this local authority did … (para 16).

HOUSING AND CHILDREN

■ R (Cornwall Council) v Secretary of State for Health

[2014] EWCA Civ 12, 18 February 2014

A young man with physical and mental disabilities was being accommodated by a local authority under CA 1989 s20. An issue arose as to which local authority would be responsible for accommodating him once he left care as an adult. That depended on where he was 'ordinarily resident' for the purposes of the National Assistance Act 1948. The secretary of state determined a dispute between several local authorities about where he was resident but Cornwall Council sought a judicial review of that decision. Beatson J dismissed the claim.

The Court of Appeal allowed an appeal and granted a declaration identifying the area in which the young man was ordinarily resident. It said:

Human beings have the inconvenient habit of conducting their lives without regard to legal categories, and the application of the relevant test is sometimes highly problematic. The difficulties of applying the test are compounded where, as in this case, the vulnerable adult does not have the capacity to make a voluntary choice about where to live. Given the potential financial implications for whichever authority bears the burden, it is not surprising that there should from time to time be disputes between authorities, essentially about who pays (para 1).

1 See: www.legislation.gov.uk/ukpga/2014/12/contents/enacted.
2 Available at: http://wales.gov.uk/docs/desh/publications/140212-how-social-landlords-tackle-anti-social-behaviour-en.pdf.
3 Available at: www.cih.org/resources/PDF/Scotland%20Policy%20Pdfs/Anti%20Social%20Behaviour%20and%20Crime/anti%20social%20behaviour%20-%20practice%20briefing.pdf.
4 Available at: http://england.shelter.org.uk/__data/assets/pdf_file/0005/760514/6424_Sustain_Final_Report_for_web.pdf.
5 See: www.gov.uk/government/uploads/system/uploads/attachment_data/file/286004/14-02-28_KH_to_LA_Leaders_-_Rehousing_in_the_PRS.pdf.
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7 Available at: http://homeless.org.uk/sites/default/files/site-downloads/20140211%20NSNO%20England%20Wide%20Report%20FINAL.pdf.
8 Available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/286786/Statutory_Homelessness_4th_Quarter__Oct_-_Dec__2013_England.pdf.
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14 Available at: www.homesandcommunities.co.uk/ourwork/consumer-regulation.
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16 Available at: http://ico.org.uk/news/latest_news/2014/~/media/documents/library/Data_Protection/Research_and_reports/outcomes-report-social-housing-organisations.pdf.
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18 Available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/278607/Promoting_mobility_through_mutual_exchange_-_learning_lessons.pdf.
19 Available at: http://wales.gov.uk/docs/desh/publications/140218-impacts-of-welfare-reforms-on-social-rented-sector-en.pdf.
20 Available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/283979/Review_of_Property_Conditions_in_the_Private_Rented_Sector__2_.pdf.
21 See: www.landlords.org.uk/news-campaigns/news/nla-launches-social-media-campaign-on-selective-licensing.
22 Available at: www.parliament.uk/briefing-papers/SN04634.pdf.
23 Available at: http://direitoamoradia.org/wp-content/uploads/2014/02/A_HRC_25_54_Add.2_ENG.pdf.
24 See: www.gov.uk/government/news/response-to-un-special-rapporteur-report.
25 Ian Greenidge, solicitor, Mary Ward Legal Centre and Liz Davies, barrister, London.
26 See: www.southwark.gov.uk/news/article/1577/seven_housing_fraudsters_brought_to_justice_in_one_of_countrys_biggest_cases.
27 Ed Fitzpatrick, barrister, London and Caroline Brosnan, Hodge Jones & Allen, solicitors, London.

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