

## Housing Cases of Interest

Andy Lane has put together the housing cases of interest over the last 3 months...

### Allocation

[YA v HAMMERSMITH & FULHAM LONDON BOROUGH COUNCIL \[2016\] EWHC 1850 \(Admin\)](#)

A local authority's refusal to enter a care leaver on its housing register was unlawful, as it had based its decision on the leaver's spent criminal convictions contrary to the Rehabilitation of Offenders Act 1974 s.4(1).

### Children Act

[R \(on the application of HASSAN JALAL\) v GREENWICH ROYAL LONDON BOROUGH COUNCIL \[2016\] EWHC 1848 \(Admin\)](#)

The Children Act 1989 s7 conferred a power, not a duty, to assist a child in need. A local authority had therefore been entitled to refuse a family accommodation under s.17 where the parents had the resources to find a family home, but had failed to do so by the time their temporary accommodation ended. The local authority's proposal to accommodate the children without the parents, should the latter fail to find accommodation, was reasonable and was not a breach of ECHR art.8.

### Homelessness

[R \(on the application of HINDIS ABDULRAHMAN\) V THE LONDON BOROUGH OF HILLINGDON \[2016\] EWHC 2647 \(Admin\)](#)

This was an application for judicial review of a decision by the local authority to decline an application made by the Claimant pursuant to s183 of the Housing Act 1996 on the grounds that there had been no change of circumstances since an earlier determination in 2013. The court rejected the first ground of challenge – that the authority had applied the wrong test (which was whether the application was based on exactly the same facts as previously) – but found for the Claimant on the irrationality challenge. It was no longer a joint application, and the number of people seeking assistance had changed

### Possession

[CARDIFF COUNTY COUNCIL v LEE \[2016\] EWCA Civ 1034](#)

A landlord's failure to apply to the court for permission before seeking a warrant of possession, as required by CPR r.83.2, was a procedural defect which the court was empowered to cure under CPR r.3.10 by dispensing with the need for a prior permission application and proceeding to validate the warrant where the circumstances justified that course. Rule 83.2 did not exclude the exercise of the r.3.10 power.

### Rent

[\(1\) PRAVIN CHOUHAN \(2\) ANGELA THOMAS v EARLS HIGH SCHOOL \[2016\] UKUT 405 \(LC\)](#)

A clause in a tenancy agreement constituted a contractual provision for the variation of rent under the Housing Act 1988 s13(1)(b) such that the First-tier Tribunal did not have jurisdiction under s14 to consider a proposed increase in rent. The Upper Tribunal suggested that the parties might consider deleting the provision, given that the agreement had become an assured tenancy to which the Act applied.

### Service Charges

[LEASEHOLDERS OF FOUNDLING COURT & O'DONNELL COURT v \(1\) CAMDEN LONDON BOROUGH COUNCIL \(2\) ALLIED LONDON \(BRUNSWICK\) LTD \(3\) BRUNSWICK GP LTD \(4\) BRUNSWICK NOMINEE LTD \(5\) BIS \(POSTAL SERVICES ACT 2011 COMPANY\) LTD \[2016\] UKUT 366 \(LC\)](#)

Where a superior landlord proposed carrying out works to which the consultation requirements under the Landlord and Tenant Act 1985 s20 applied, the obligation to consult was on the superior landlord, not the intermediate landlord; the obligation was on the landlord intending to carry out the works. It required the superior landlord to consult the individual leaseholders, not just the intermediate landlord.

[\(1\) PATRICK CANNON \(2\) TAMARA CANNON v 38 LAMBS CONDUIT LLP \[2016\] UKUT 371 \(LC\)](#)

A landlord's failure to serve a notice which complied with the Landlord and Tenant Act 1987 s47 did not deprive the First-tier Tribunal of jurisdiction to determine a service charge dispute under the Landlord and Tenant Act 1985 s27A. A service charge was not due until a landlord complied with s.47, but a landlord could give a valid notice at any time and it did not follow that the tribunal could not be asked to consider an application under s.27A until a valid notice had been served.

### Succession

[JACK JONES V LUTON BOROUGH COUNCIL \[2016\] EWHC 2036 \(Admin\)](#)

The Claimant challenged a decision of the Defendant's Housing Needs Review Panel not to offer him a tenancy of his home following the death of his tenant father (himself a successor). There was no statutory right to succession and a notice to quit was issued by the authority, though they offered the Claimant and his partner alternative one-bedroom accommodation. They argued that they should be entitled to stay in the two-bedroom property because the partner's brother lived with them and had medical issues. The authority decided that the brother was not part of their permanent household and so upheld their decision to offer alternative one-bedroom accommodation. The court decided that this was a decision the authority was entitled to make.

### Sub-letting

[IVETA NEMCOVA v FAIRFIELD RENTS LTD \[2016\] UKUT 303 \(LC\)](#)

A lessee had breached a covenant in her lease not to use her flat other than as a private residence by granting a series of short-term lettings of the property. The fact that the lessee had granted the lettings meant that her occupation of the flat was so transient and not sufficiently permanent that she would not consider the property her private residence.

**Cornerstone Barristers**

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