

Closing Plenary: The Mazur ruling, litigation rights and the year ahead in Housing

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CLOSING PLENARY

In order of appearance, Kelvin Rutledge KC, Jackson Sirica, Catherine Rowlands & Ranjit Bhose KC





MAZUR

Kelvin Rutledge KC
Jackson Sirica



MAZUR

Mazur & Stuart v Charles Russell Speechleys LLP, The Solicitors Regulation Authority & The Law Society of England & Wales intervening

[2025] EWHC 2341 (KB), Sheldon J (16/09/2025)

<https://www.bailii.org/ew/cases/EWHC/KB/2025/2341.html>

THE FACTS

- Respondent firm (“CRS”) carried out legal work for Appellants (“M&S”) for which M&S failed to pay;
- CRS instructed another firm (“GBS”) to collect the debt;
- Claim handled by GBS’s non-admitted “Head of Commercial Litigation” (“PM”) under supervision of a director (“RA”);
- PM took all steps including taking instructions from and advising CRS, drafting and issuing proceedings and instructing counsel;

THE FACTS CONT.

- **M&S challenged PM's right to conduct the litigation, even under RA's supervision;**
- **DDJ agreed with M&S and granted a stay of the claim;**
- **GBS appealed. Meanwhile, another solicitor with GBS took over the conduct from PM;**
- **Relying on RA's supervision of PM, CJ allowed the appeal and ordered M&S to pay the costs;**
- **M&S appealed to the High Court against costs order.**

CORE ISSUE IN THE HIGH COURT

For the purposes of the Legal Services Act 2007 (“LSA”), was PM authorised to conduct the litigation under the supervision of RA?

Both SRA and LS invited to make representations.

CRS/GBS's CASE

Relying on letter from SRA of December 2024, LSA, s.21(3) permitted PM to conduct the litigation under RA's supervision.

S.21(3) includes “employees” of an authorised person within the class of “regulated persons”.

SRA/LS's CASE IN THE HIGH COURT

Disavowing December 2024 letter:

- **An unauthorised person supporting an authorised person in the conduct of litigation is permissible.**
- **However, an unauthorised person conducting litigation under the supervision of an authorised person is not.**

SHELDON J'S CONCLUSIONS

- **As the conduct of litigation is a “reserved legal activity” only persons who are either “authorised” (LSA, s.18) or “exempt” (LSA, s.19) may carry on such activity.**
- **Mere employment by a person who is authorised to conduct litigation is not sufficient for the employee to conduct litigation themselves, even under supervision.**
- **S.21(3) does not change the position. All authorised persons are regulated but not all regulated persons are authorised.**

THE OUTCOME

- **The costs decision was based on an error law and therefore had to be set-aside.**
- **For SRA to decide whether PM was in fact conducting litigation.**

“AUTHORISED PERSONS”

- **LSA, s.18**
 - **Authorised to carry on a “relevant activity” by a relevant approved regulator.**
 - **SRA’s Authorisation of Firms Rules.**

“EXEMPT PERSONS”

- **LSA, s.19 & sch. 3, para. 2**
 - **Case-specific authority granted by a court or an “enactment”.**
 - **Does CPR 2.3 apply? Defines “legal representative” as meaning “(a) barrister; (b) solicitor [or] (c) solicitor’s employee”.**

CONDUCT OF LITIGATION

- **LSA, sch. 2, para. 4 e.g. “the issuing of proceedings before any court” and “the performance of any ancillary functions in relation to such proceedings”.**
- **“assumed responsibility for the conduct of the litigation and exercises professional judgment in respect of it” (*Mazur* at [42]).**

CONDUCT OF LITIGATION CONT.

***Baxter v Doble* [2023] EWHC 486 (KB) at [181-184], Cavanagh J's "four key points of principle" :**

- (i) Statutory words must be given their ordinary and natural meaning;**
- (ii) But as penal in nature, should be construed narrowly;**
- (iii) Substance must prevail over form;**
- (iv) Question is ultimately one of fact & degree.**

APPLICATION TO OTHER “RESERVED LEGAL ACTIVITIES”?

- **Conveyancing (sch. 2, para. 5)**
- **Probate (sch. 2, para. 6).**

POTENTIAL ISSUES FOR HOUSING PRACTITIONERS

- **Application to in-house legal teams?**
- **Application to firms with high volume/low value case loads, e.g. housing disrepair claims?**
- **Disruption of business, e.g. possession/ASB claims?**
- **Setting aside/costs consequences?**



Cases to watch in 2026

Catherine Rowlands



Wales

Renting
Homes
(Wales)
Act 2016

Restitution
ary claim
for rent
paid under
mistake of
law?

Beacon Cymru
Group Ltd &
Ors v Mitchell
& Ors.

Claims
failed as
the rent
was not
paid as
result of
mistake

[2025]
EWHC
2477 (Ch)

Wales

Renting
Homes
(Wales)
Act 2016

COA

Coastal
Housing Group
Ltd & Ors v
Mitchell & Ors.

obligation to
give
electrical
condition
reports to
tenants
(contract-
holders)

10-
12/2/26

RR v Enfield LBC – 14/10/25 COA

01

Disability discrimination

Was there discrimination under
the allocations scheme?

02

Evidence

What evidence is needed to
raise the prima facie case of
discrimination?

03

s. 31(2A)

Was the “if so, so what” test
properly applied to a lack of
monitoring data?

A v Enfield LBC – 16/10/25 COA

On review, does the local authority need to look for closer accommodation to the home district when A is already in a neighbouring borough?

What effect does a failure to notify under s.208 have on any review and subsequent appeal?

Young v Wandsworth LBC

Public law defence to possession claim in relation to temporary accommodation on a non-secure tenancy.

Defence was that the local authority continued to owe him the main housing duty (cessation of duty letter being invalid).

He had not sought a review of, or appealed, the decision to discharge duty.

Can a public law defence avail when there is no right to remain in any particular accommodation anyway?





Housing 35 Plus Ltd v Nottingham City Council (appeal from UTJ E Cooke)



- licensing requirements for HMOs
- requirements of paragraph 2B of Schedule 14 to the Housing Act 2004: building managed or controlled by a Co-operative society where “all management decisions of the society are made by the members at a general meeting which all members are entitled to, and invited to, attend”.

UT held

“48...the [Appellant]’s rules do not “secure” that “all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend” as paragraph 2B(2)(b) requires. The FTT was wrong about that and its decision about the effect of the rules is set aside.”

COA hearing in Feb 2026



City of London v Bussandra – 18/19.11.25 COA

01

(i)

To what extent is the authority entitled to respond to the appellant's case in its review decision?

02

(ii)

How far does the duty to give reasons for departing from medical evidence extend?

03

(iii)

What is the interaction between "deliberate act" in s.191 and the PSED?



Anti-social behaviour

... and asylum-seeker hotels

What use can be made of Anti-social behaviour powers?

... and selective licensing

Judicial review of a London local authority's scheme on the basis that anti-social behaviour and poor housing criteria were not met.

Greenleaf v Tendring District Council

Claimant's housing request and decisions:

The claimant sought homelessness assistance due to eviction, was found intentionally homeless by Tendring upheld on review.

The claimant challenges three decisions by Tendring concerning the housing needs assessment (HNA), suitability of accommodation, and housing band placement.

Permission granted on 5 of his 8 grounds and is renewing the other 3.

Grounds 6 and 7 - Indirect discrimination and reasonable adjustments: says the allocations policy's reduced preference criterion causes particular disadvantage to disabled persons or lacks proportionality.

Council's opposition and delay issue:

Tendring opposes all eight grounds of review, arguing the HNA complies with legal requirements, the accommodation is suitable, advice and assistance were provided, and the allocations policy is lawful and non-discriminatory. The council also contends the claimant's challenge to February 2025 decisions is delayed and should be refused



In the Supreme Court

R (on the application of Bano) v London Borough of Waltham Forest

Whether a local authority's duty to house homeless applicants under section 193 of the Housing Act 1996 ends by operation of law or whether the local authority is required to make a decision that the duty has ended.





Not going



Ofori-Addo v London Borough of Haringey - When a local authority makes a decision about the duties it owes a homeless individual and that decision is reviewed, must the local authority conduct a broad review of all aspects of the earlier decision and identify all duties which may be owed?

D'Aubigny v Khan and another - (1) Was a letter serving a gas safety certificate etc a "notice" within the meaning of the tenancy agreement? (2) Is there a common law presumption that a properly addressed letter that is posted is presumed to be received unless the intended recipient can prove the contrary?



Permission to appeal sought

Beach v South Hams District Council Is A intentionally homeless because he refused to remain in the accommodation offered, when that accommodation did not have space for his children?

Norton v London Borough of Haringey - Does a local housing authority's failure to carry out an assessment of an applicant's case under s189A Housing Act 1996 mean that any subsequent decision the authority takes as to the suitability of accommodation for that applicant is necessarily unlawful?

Laidley (by his Litigation Friend, The Official Solicitor) v Metropolitan Housing Trust Ltd – use of assessors in possession claims



3

Legislative changes to Service Charge Law

Ranjit Bhose KC





Part 4 Leasehold and Freehold Reform Act 2024



- Amends Landlord and Tenant Act 1985
- MHCLG consultation 'Strengthening leaseholder protection over charges and services: consultation' (4 July to 26 September 2025)
- Regulations to be made and come into force in 2026
- Future changes to the section 20 statutory consultation regime (including the dispensation power)



Main changes made by Part 4 LFRA 2024



- 1. Standardising the information landlords will be required to provide leaseholders, by introducing a new **standardised service charge demand form and annual report**
- 2. Requiring landlords to provide leaseholders with greater certainty of cost and timing of any **future demand for payment** which is expected more than 18 months after the cost was incurred
- 3. Expanding the amount of **information on request** that landlords must provide to leaseholders
- 4. Requiring landlords proactively to disclose to leaseholders details of the **building insurance policy** that was purchased



Main changes made by Part 4 LFRA 2024



- 5. Ensuring most **service charge accounts be provided within 6 months** of the end of the previous service charge accounting period, regardless of the lease terms
- 6. Requiring landlords to apply to the relevant court or tribunal for approval to pass their **litigation costs** onto leaseholders (i.e. the landlord's right to recover litigation costs is no longer automatic) and giving leaseholders the right to apply to claim their litigation costs from their landlord
- **7. New rights for tenants of PRPs** who pay variable or fixed service charges



New proposed reforms of the major works regime



- Reserve Funds
- Major Works
- QLTAs
- Mandating use of standardised forms
- Speeding up the process
- Changing the rules on Dispensation



Statutory regulation of Heat Networks to begin

Ranjit Bhose KC



Communal Heating and Hot Water Systems – the current law

Standards of service / regulation

- Tenancy agreements / sections 9A-11 LTA 1985
- Leases / section 19 LTA 1985
- Consumer Supply / Heat Supply Agreements

Billing

- Secure / introductory / assured tenants
- Leaseholders / shared owners
- Heat Network (Metering and Billing) Regulations 2014



Heat Networks – Chapter 1 to Part 8 Energy Act 2023



Section 216 definitions:

"heat network":- a network that, by distributing a liquid or a gas, enables the transfer of thermal energy for the purpose of supplying heating, cooling or hot water to a building or persons in that building (and includes any appliance the main purpose of which is to heat or cool the liquid or gas)

"Relevant heat network" is either a

"communal heat network": - a heat network by means of which heating, cooling or hot water is supplied only to a single building divided into separate premises or persons in those premises; or

"district heat network":- a heat network by means of which heating, cooling or hot water is supplied to two or more buildings or persons in those buildings



Section 219 – power to make heat networks regulations



Confers power on the Secretary of State to make regulations for the purposes of:

- regulating relevant heat networks, or
- conferring powers in relation to the development or maintenance of relevant heat networks

Schedule 18 contains further provision about the power to make regulations under section 219

Ofgem is the appointed regulator



Where are we now?



- Ofgem's regulation of heat networks will start to come into effect from 27 January 2026
- Existing heat networks are automatically authorised – “deemed authorisations”
- From 27 January 2026 heat networks suppliers and operators will need to comply with these regulations, which introduce new rules to protect customers
- There will be transitional provisions

What has happened in the last 12 months?

- Heat Networks (Market Framework) (Great Britain) Regulations 2025
- November 2024 Department for Energy Security & Net Zero and Ofgem consultation on 'Heat networks regulation: implementing consumer protections'
- August 2025 response to that Consultation
- August 2025 draft 'Heat Network Authorisation Conditions'
- September 2025 consultation on draft 'Guidance for Consumer Protections for Heat Networks in Great Britain (England, Scotland and Wales)'
- September 2025 consultation on 'Heat networks regulation: fair pricing protection guidance'



Draft Heat Network Authorisation Conditions



- Authorisation Condition 9 – Heat Supply Contracts
- Authorisation Condition 13 – Bills and Billing Information
- What do landlords have to do?
 - Get to grips with the new regulatory scheme
 - “Relevant Leases” – what are they / what needs to be done?
 - Secure Tenancies – section 103 Housing Act 1985 variations?
 - Assured Tenancies – contractual variation provisions?

Thank you!

Ask us more questions

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