

Housing Cases of Interest

[Andy Lane](#) has again put together the housing and related cases of interest over the last 3 months...

ANTI-SOCIAL BEHAVIOUR

[BIRMINGHAM CITY COUNCIL V PARDOE \[2016\] EWHC 3119 \(QB\)](#)

The court confirmed that pre-23 September 2014 anti-social behaviour could still be relevant despite s21(7) of the Anti-social Behaviour, Crime and Policing Act 2014 (though on its own it would not be sufficient to allow a s1 injunction).

BEDROOM TAX

[CARMICHAEL & OTHERS v SSWP \[2016\] UKSC 58](#)

The bedroom tax in its current form unlawfully discriminated against two claimants who needed an additional bedroom by reason of a disability, the first claimant because she could not share a bedroom with her husband due to her disabilities, and the second claimants because they needed a regular overnight carer for their grandson who had severe disabilities. Other claimants, however, had their appeals dismissed.

BENEFITS

[BIRMINGHAM CITY COUNCIL V ROSHNI & OTHERS \[2016\] EWCA CIV 1211](#)

The Upper Tribunal had adopted a flawed approach in exercising its discretion under the Housing Benefit Regulations 2006, regulation B13(3), to determine whether the rent in a refuge for women was "unreasonably high" by considering the amount of public subsidies received by other suitable alternative accommodation. It had not made a true comparison with accommodation of a comparable type and tenure and there was no justification for reading into the market rent any artificial constraints, the comparison had to be objective, realistic, and complete. The matter was remitted for the Upper Tribunal to reconsider whether the rents were unreasonably high and, if so, the amount by which the eligible rent should be reduced

COUNCIL TAX

[R \(on the application of WOOLCOCK\) \(Claimant\) v BRIDGEND MAGISTRATES' COURT \(Defendant\) & \(1\) CARDIFF MAGISTRATES' COURT \(2\) BRIDGEND COUNTY COUNCIL \[2017\] EWHC 34 \(Admin\)](#)

The court quashed an order suspending the committal to prison of a council tax debtor on condition that she pay off arrears of council tax at the rate of £10 per week. The court found that magistrates had failed to conduct a proper means assessment before making this order, and the suspension period, which amounted to 11.5 years, was manifestly excessive.

[LEEDS CITY COUNCIL v STEPHEN BROADLEY \[2016\] EWCA Civ 1213](#)

This appeal concerned the liability for council tax and nature of tenancies. Grants of tenancies of a fixed term of 6 or 12 months and thereafter continuing on a monthly basis were valid at common law and under the Law of Property Act

1925 and not void. The tenants therefore fell within the Local Government Finance Act 1992 s6(5)(a) and were thus liable to pay council tax until the end of the tenancy even if they were no longer resident.

DEVELOPMENT

[R \(on the application of ANDREW PLANT\) v LAMBETH LONDON BOROUGH COUNCIL \[2016\] EWHC 3324 \(Admin\)](#)

A challenge to a local authority's resolution to demolish and rebuild, rather than refurbish, the properties on an estate was unsuccessful. The decision contained interesting comments on consultation, and art 1 of the first protocol in so far as it concerned the secure tenants right to buy (i.e. not an absolute right to exercise the RTB and art 1 not engaged as none had as yet exercised the right).

HOMELESSNESS

[HACKNEY LONDON BOROUGH COUNCIL v MOHAMMED ABDUL HAQUE \[2017\] EWCA Civ 4](#)

An important and long-awaited post-Hotak case on the impact of the PSED on a local authority's assessment as to the suitability of accommodation offered. See paragraph 43 of Lord Justice Briggs' judgment in particular.

[R \(on the application of KENSINGTON & CHELSEA ROYAL LONDON BOROUGH COUNCIL\) \(Claimant\) v EALING LONDON BOROUGH COUNCIL \(Defendant\) & S HACENE-BLIDI \(Interested Party\) \[2017\] EWHC 24 \(Admin\)](#)

Where a (homelessness) housing duty had been accepted and then discharged, there did not have to be a new incidence of homelessness for a new (homelessness) housing duty to arise. Therefore, where one local authority had accepted a housing duty and a second authority had accepted that the conditions were met to refer the housing application to it, that second authority could not avoid its duty by simply referring to the previously discharged duty, unless the first authority had acted perversely or on a mistake of fact (i.e. there had been no relevant change in circumstances at all).

[LB OF CROYDON v LOPES \[2017\] EWHC 33 \(QB\)](#)

An important costs case relating to otherwise "resolved" homelessness cases. M v Croydon LBC [2012] EWCA Civ 595 applied. The local authority here was entitled to its costs of an appeal withdrawn by a claimant where, had the appeal been heard, it would likely have been the successful party.

[BIRMINGHAM CITY COUNCIL v WILSON \[2016\] EWCA Civ 1137](#)

Another homelessness case – see Haque above - where the approach to the PSED was considered (in this case disability was not accepted).

HUMAN RIGHTS

[WATTS v STEWART & OTHERS \[2016\] EWCA Civ 1247](#)

The occupiers of almshouses were licensees, not tenants, and it was held that this did not give rise to a breach of art 14 (when read with art 8).

POSSESSION ORDERS

[ANTHONY HOLLEY & ANOR v HILLINGDON LONDON BOROUGH COUNCIL \[2016\] EWCA Civ 1052](#)

This was a case of a "second succession" where the Court of Appeal held that the occupant's period of residence

would not on its own be sufficient to found a proportionality defence under art 8. It could though form part of a proportionality argument, but given that Parliament had decided against second succession would be unlikely to be a strong factor.

SERVICE CHARGES

[THOMAS HOMES LTD v COLIN MACGREGOR \[2016\] UKUT 495 \(LC\)](#)

The case concerned the interesting argument that in some instances it may be argued that service charges payable by a lessee were unreasonable in so far as they were said to subsidise social tenants in the same building. The Upper Tribunal overturned a decision accepting such an analysis and found that the First-tier Tribunal had failed to fulfil its actual obligation under s.27A of the Landlord & Tenant Act 1985, which was to determine the amount of service charges payable and to construe the lease by examining the words used.

Cornerstone Barristers

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