

## Housing Cases of Interest

*Andy Lane considers housing and related cases of interest over the last 3 months...*

### Allocation

[\*R \(on the application of FARTUN OSMAN\) v HARROW LONDON BOROUGH COUNCIL \[2017\] EWHC 274 \(Admin\)\*](#)

An amendment to a local authority housing allocation scheme which reduced the priority of those suffering overcrowding in privately rented accommodation, by comparison with those who were overcrowded and secure tenants, was proportionate and justified and pursued a legitimate aim.

[\*R \(on the application of XC\) v SOUTHWARK LONDON BOROUGH COUNCIL \[2017\] EWHC 736 \(Admin\)\*](#)

Although a local authority's priority housing allocation scheme indirectly discriminated against disabled persons and women, the scheme had a legitimate aim, namely the creation of sustainable and balanced communities, and was the least intrusive measure which could be used to achieve that aim.

### Benefits

*R (ON THE APPLICATION OF HALVAI) v HAMMERSMITH AND FULHAM LONDON BOROUGH COUNCIL QBD (Admin) (Sara Cockerill QC) 09/03/2017*

A local authority had acted unlawfully in refusing discretionary housing payment to a disabled woman who lived in specially adapted accommodation. It had failed to apply its own policy in not understanding that discretionary housing payment could be a long-term solution, had failed to consider all the relevant factors, had not considered the individual's particular circumstances and had failed to consider the exercise of its residual discretion.

### Licensing

[\*NOTTINGHAM CITY COUNCIL v \(1\) DOMINIC PARR \(2\) TREVOR PARR ASSOCIATES LTD \[2017\] EWCA Civ 188\*](#)

It was not unlawful to impose a licence condition restricting the occupation of a house in multiple occupation to full-time students. Although the licensing regime concerned the physical characteristics of the relevant property, the personal characteristics and activities of potential occupiers would often be relevant and require investigation.

[\*WALTHAM FOREST LONDON BOROUGH COUNCIL v MOHAMMAD AFZAL KHAN \[2017\] UKUT 153 \(LC\)\*](#)

It was legitimate for a local housing authority to have regard to the planning status of a house when deciding whether or not to grant a licence under the Housing Act 2004 Part 3 and when considering the terms of that licence.

[Ashley Underwood QC](#) acted for the successful authority – his e-flash is [here](#)

## Notices

[\*ISLINGTON LONDON BOROUGH COUNCIL v RAYMOND DYER \[2017\] EWCA Civ 150\*](#)

A notice served by a landlord on a tenant for the purposes of the Housing Act 1996 s128 could be comprised in more than one document. There was no reason why an accompanying information leaflet should not be treated as part of the notice if the reasonable recipient would have understood that the documents were intended to be read together.

## Only or Principal Home

[\*1\) EVELYN DOVE \(2\) ELAINE DOVE v LONDON BOROUGH OF HAVERING \[2017\] EWCA Civ 156\*](#)

A judge had been entitled to find on the evidence of alternative accommodation that neither of joint tenants was occupying a local authority flat as her principal home when notice to quit was served. Neither, therefore, was a secure tenant and it followed that the local authority was entitled to possession without the need to prove a statutory ground.

## Succession

[\*SUSAN TURLEY v \(1\) WANDSWORTH LONDON BOROUGH COUNCIL \(2\) SECRETARY OF STATE FOR COMMUNITIES & LOCAL GOVERNMENT \[2017\] EWCA Civ 189\*](#)

A condition in the Housing Act 1985 s87(b) which required, up until 1 April 2012, that the long-term partner of a secure tenant had to have resided with the secure tenant throughout the 12-month period prior to the secure tenant's death in order to succeed them, was not manifestly without reasonable foundation. Even if the situations of common law spouses and married or civil partnership spouses were analogous for the purpose of ECHR art.14, the difference in treatment between them was justified and proportionate.

[Wayne Beglan](#) acted for the successful respondent authority

**Andy Lane**  
**Cornerstone Barristers**  
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