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 (Commencement No 7, Saving and Transitional Provisions) Order 2014 SI No 2590, as corrected by the Anti-social Behaviour, Crime and Policing Act 2014 (Commencement No 7, Saving and Transitional Provisions) (Amendment) Order 2014 SI No 2754, brought most of the new 'tools and powers' relating to control of anti-social behaviour into force on 20 October 2014. However, the commencement of the new injunction provisions in Part 1 of the Anti-social Behaviour, Crime and Policing Act (AsBCPA) 2014 has been delayed to enable issues about legal aid funding for such cases to be resolved.

The Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014 SI No 2554, also in force from 20 October 2014, set out the review arrangements to be followed when landlords of secure tenants in England use the new 'absolute' possession ground for anti-social behaviour. There is no equivalent mandatory procedure when possession is sought on the same ground against an assured tenant. For a discussion of the likely impact of the new ground, see *The new Anti-social Behaviour Act 2014 – what it means for landlords and tenants* (Part 2) [2014] 18 L&T Rev 165.

To help social landlords manage the new 'community trigger' introduced by AsBCPA Part 6, the Local Government Association (LGA) has produced a free guidance note: *Implementing the community trigger* (LGA, September 2014).[1]

The latest official statistics show that 24,427 anti-social behaviour orders (ASBOs) were made between April 1999 and December 2013: *Anti-social behaviour order statistics: England and Wales 2013 key findings* (Home Office, September 2014).[2] No more ASBO applications will be made after the introduction of Part 1 of the AsBCPA.

A new online guide for victims of anti-social behaviour by neighbours has been published by the consumer organisation Which?[3]

Homelessness

The latest official statistics show that, on 30 June 2014, nearly 60,000 homeless households are being housed in temporary accommodation by local housing authorities in England: *Statutory homelessness: April to June quarter 2014*. England (Department for Communities and Local Government (DCLG), September 2014).[4]

At the end of June 2014, there were a further 2,180 homeless households in temporary accommodation in Wales: *Homelessness statistics* (Welsh government, September 2014).[5]

Private renting

The Tenancies (Reform) Bill, introduced by Sarah Teather MP, is due to have a House of Commons second reading on 28 November 2014. The provisions of the bill would protect tenants against retaliatory eviction and amend the law on notices requiring possession relating to assured shorthold tenancies.[6] For a useful discussion of the bill's provisions, see the LAG housing law blog article, *Retaliatory eviction – a solution?*[7]

The UK government has issued a free model agreement for an assured shorthold tenancy for use by private landlords in England: *Model agreement for an assured shorthold tenancy and accompanying guidance* (DCLG, September 2014).[8]

A new code intended to promote best practice in the letting and management of private rented sector housing in England has been published by a consortium of organisations concerned with private sector renting: *Private rented sector code of practice* (Royal Institution of Chartered Surveyors and others, September 2014).[9] The code is intended for use by landlords and letting and management agents in the private rented sector and aims to ensure:

- good quality homes for rent;
- consistent and high standards of management;
- choice for the consumer.

For prospective private sector tenants in England, the UK government has issued an updated version of its free guide *How to rent* (DCLG, September 2014).[10]

The Property Ombudsman, who deals with complaints against estate agents and letting agents, has received significantly more complaints in the first six months of 2014: *The Property Ombudsman interim report 2014* (September 2014).[11]

The UK government has also published advice directed at managing and letting agents that have yet to join one of the three mandatory redress schemes: *Lettings agents and property managers: which government approved redress scheme do you belong to?* (DCLG, October 2014).[12] It sets out the provisions enabling local authorities to impose penalties of up to £5,000 on those agents that have not joined a scheme.

Mobile homes

The Mobile Homes (Wales) Act 2013 (Commencement, Transitional and Saving Provisions) Order 2014 WSI No 11 brought the key provisions governing terms of occupation and eviction from mobile home sites into force on 1 October 2014.

The UK government is consulting on new planning restrictions for England, that will affect Gypsies and Travellers without authorised sites on which to station their mobile homes: *Consultation: planning and travellers* (DCLG, September 2014).[13] The closing date is 23 November 2014.

HUMAN RIGHTS

Article 8

■ Dzemyuk v Ukraine

App No 42488/02,
4 September 2014,
[2014] ECHR 894

Mr Dzemyuk owned a house in a mountainous village. In 2000, the Village Council decided to construct a new cemetery near his house. In 2001, the Environmental Health Inspectorate concluded that the cemetery should not have been built in view of its proximity to residential buildings and the risk of contamination of the surrounding environment by ptomaine. Various courts held that the council's decision to situate the cemetery on the particular plot of land had been unlawful. Despite this, burials continued. The council refused repeatedly to comply with court decisions to close the cemetery. Mr Dzemyuk complained to the European Court of Human Rights (ECtHR) alleging a breach of article 8 of the European Convention on Human Rights ('the convention'). He argued that the continued use

of the cemetery had rendered his home virtually uninhabitable and his land unsuitable for use.

The court found that there had been a breach of article 8. Although the object of article 8 is essentially to protect individuals against arbitrary interference by public authorities, it may involve the authorities adopting measures designed to secure respect for a person's private life and home. In this case, the court's task was to assess whether the state took all reasonable measures to secure the protection of Mr Dzemyuk's rights under article 8. The court noted that the government did not dispute that the cemetery was built and used in breach of the domestic regulations. The siting and use of the cemetery were illegal in a number of ways: environmental regulations were breached; the conclusions of the environmental authorities were disregarded; final and binding judicial decisions were never enforced; and the health and environment dangers inherent in water pollution were not acted on. The interference with Mr Dzemyuk's right to respect for his home and private and family life was not 'in accordance with the law' within the meaning of article 8. The court awarded damages of €6,000.

POSSESSION ORDERS

Relief from sanctions

■ Brent LBC v Egbo

[2014] EWHC QBD,
14 August 2014

Mr Egbo was a secure tenant. Brent brought a possession claim based on rent arrears. In 1989, a suspended possession order was made. He failed to comply with the terms of the order, and the tenancy came to an end (Housing Act (HA) 1985 s82(2)) and he became a tolerated trespasser. In 2006, Brent issued a second set of possession proceedings, claiming that he was a trespasser or, alternatively, that he was unlawfully subletting the property. In 2007, a circuit judge accepted that the defendant was a tolerated trespasser and made a possession order. In June 2009, Mr Egbo was granted permission to appeal. He took no action on the appeal, and an 'unless' order was made against him. He failed to comply with the terms of the unless order, and his appeal was struck out in November 2013. Brent was granted permission to execute the possession order. Mr Egbo made applications to the High Court for relief from sanctions to restore his appeal and to the county court to set aside the second possession order and to stay its execution. In August 2014, the application to set aside the second possession order was dismissed because he failed to attend the hearing.

On the application for relief from sanctions, Lewis J held that, for the purposes of the third limb of the test in *Denton v TH White Ltd* [2014] EWCA Civ 906, the requirement to consider 'all the circumstances of the case' allowed the court to have regard to the underlying merits of the defendant's appeal. In addition, as the outcome of his application in the county court to set aside the possession order had the potential to render the appeal academic, it was appropriate to adjourn the defendant's application for relief to allow him time to apply to the county court to set aside the order made in his absence. If this succeeded, he would have an opportunity to set aside the 2007 possession order.

Duty to protect goods

■ Campbell v Redstone Mortgages Limited

[2014] EWHC 3081 (Ch),
19 September 2014

Ms Campbell had a mortgage that was assigned to Redstone. She fell into arrears and a possession claim was issued in 2007. In 2008, a suspended possession order was made. She failed to comply with the terms and, after a number of warrant suspensions, she was evicted in January 2014. The mortgage deed included a term stating that:

If we [ie Redstone] or a receiver take possession of the property, you must, on notice, remove all of your furniture and belongings. If you have not done so within 7 days of the notice, we may as your agent remove, store or sell any items left behind.

On taking possession, Redstone left notices at the property under that clause and the Torts (Interference with Goods) Act 1977, warning that all goods at the property would be disposed of should they not be collected. The notices were fixed to the metal gate at the entrance to the property, and to the main dwelling house door, in plastic transparent sleeves.

Ms Campbell applied to extend the time for collection of her personal possessions. On the date of expiry of the extension given, Ms Campbell and her son barricaded themselves in the property, but later left voluntarily under police escort. Redstone then began to clear her belongings. Ms Campbell's daughter, one of her sons and two third parties obtained an injunction to prevent further clearance. After a full hearing, District Judge Traynor discharged the injunction. He took the view that Redstone was an involuntary bailee, which had provided 'ample and adequate opportunity' for removal of the items that they alleged belonged to them (para 72). Redstone's contractors removed all remaining items in May 2014. Ms Campbell then claimed damages arising from Redstone's disposal of her goods found at the property.

Andrew Sutcliffe QC, sitting as a judge of the High Court, tried a preliminary issue as to liability. After referring to *Da Rocha-Afodu v Mortgage Express Limited* [2014] EWCA Civ 454; [2014] 2 P & CR DG10, he held that when Redstone enforced the possession order and found that Ms Campbell 'had made not the slightest attempt to clear the property in order to comply with her duty to give vacant possession, it became an involuntary bailee of the goods left at the property' (para 117). Its obligation in law was to do what was right and reasonable in the circumstances of the case. The judge found that Ms Campbell's tactic of leaving her goods at the property was a deliberate one, designed to prevent Redstone from being able to have vacant possession and to impede its attempt to market and sell the property to apply the sale proceeds against Ms Campbell's debt. At no time did Redstone or its agents take any step that had the effect of interfering or hindering Ms Campbell or anyone else from collecting their chattels. Indeed, Redstone made every attempt to facilitate the clearance of those goods. The mortgagee was entirely justified in clearing the property. Its decision to dispose of the goods, as opposed to putting them into storage or selling them, was entirely appropriate as the goods appeared to have no intrinsic value. This was the most sensible and cost-effective way to deal with matters. Furthermore, it simply was not feasible to put those goods in storage. Its conduct was right and reasonable. The judge held that Redstone had no liability in damages to Ms Campbell or any of the other owners of chattels left on the property.

Mental capacity

■ Islington LBC v QR

[2014] EWCOP 26,
5 August 2014

Ms QR was a secure tenant of a flat let by Islington. Experts agreed that, over a long period, she suffered from paranoid schizophrenia with delusional beliefs on sexual themes, and persecutory and grandiose delusions, which focused on fears about men entering her home and about the poisoning of her water supply. Such delusions persisted despite many years of treatment. She lacked insight into her condition and did not accept that she had a mental illness or needed to take medication to stay well. As a result, she was living in and receiving care at a treatment centre run by Camden and Islington NHS Foundation Trust.

The Trust applied for an order that Ms QR's tenancy of the Islington flat be terminated due

to her lack of capacity to make such a decision for herself. In February 2013, the court made an order authorising the termination of her tenancy. She instructed solicitors, who made an application for reconsideration under rule 89 of the Court of Protection Rules 2007 SI No 1744. The Trust was discharged as a party and Islington replaced it as applicant. The issue the judge had to decide was whether or not Ms QR should change her residence from the treatment centre to a supported living flat. This would involve giving up the tenancy of her Islington flat and taking on the tenancy of accommodation on terms that 24-hour support would be provided to her.

District Judge Batten was satisfied that Ms QR had an impairment or disturbance in the functioning of the mind or brain, which brought her within the ambit of Mental Capacity Act 2005 s2. She found that Ms QR did not understand that she was at risk of falling ill again, with life-threatening consequences, if she did not take her medication, or that her history had demonstrated over a long period of time that, without 24-hour support, she would not take her medication. Ms QR was unable to bring to bear on the decisions an understanding of the nature of her illness and the risks she faced if she did not take her medication. She was therefore unable to use or weigh that information in the decision-making process.

District Judge Batten concluded that Ms QR lacked capacity to make the decisions that were at issue in the case, but had capacity to litigate. She listed a further hearing to consider what further evidence, if any, was required in order that a best interests decision on the issues before the court could be made.

CRIMINAL OFFENCES

Proceeds of Crime Act 2002

■ R v Ali

[2014] EWCA Crim 1658,
31 July 2014

Mr Ali converted a house into 12 flats without planning permission and failed to comply with an enforcement notice requiring him to cease using the premises as more than one dwelling. He was convicted of failing to comply with an enforcement notice contrary to Town and Country Planning Act 1990 s179(2). HHJ Holt made a confiscation order against him under the Proceeds of Crime Act (POCA) 2002 in the sum of £1,438,180.59. That sum included rent received prior to service of enforcement notices which rendered his actions illegal. He appealed.

The Court of Appeal set aside the confiscation order, and instead made a new order in the sum of £544,358. Mr Ali's activities may have been in breach of planning and other regulations, but his conduct did not constitute 'an offence in England and Wales' within the meaning of POCA s76(1)(a) until any enforcement notice was actually served and became effective in relation to that property, ie, the relevant notice period in relation to that property had expired. Unless and until that moment in time arrived, he could not be said to have been engaged in general or particular 'criminal conduct' within the meaning of POCA s6(4). Accordingly, rents or proceeds derived from tenants prior to the expiry of any enforcement notice period could not constitute relevant proceeds of 'criminal conduct' for the purposes of POCA.

Protection from Eviction Act 1977

■ R v Hoque

Oxford Magistrates' Court,
15 September 2014

Mr Hoque went with another man to a house rented by Ms Hryceniek who was alone with her children aged ten and four. He pounded on the door and windows until she let him in. He was physically aggressive and pushed her hard against a coat rack. He took her house and car keys and ordered her to pack up her belongings and leave the house. He then changed the locks.

The defendant was found guilty of unlawful eviction (Protection from Eviction Act (PfEA) 1977 s1(2)). He was fined £525, ordered to pay a victim surcharge of £53 and costs of £1,071.

■ R v Seale

Manchester Crown Court,
11 September 2014

Ms Seale tried to force her tenant out of premises by cutting the heating, lighting and hot water supplies. She removed fuses after entering the property without permission. She was found guilty of an offence of harassment under the PfEA. She was fined £1,000 and ordered to pay compensation of £250 and costs of £5,000.

TRESPASSERS

■ Wensley v Persons Unknown

[2014] EWHC 3086 (Ch),
28 August 2014

The Wensley family owned a farm near Blackpool. They granted Cuadrilla Bowland Limited a licence to explore for, and extract, natural gas and oil. On 7 August 2014, anti-fracking protestors occupied a field on the farm. There was evidence that some protestors or campaigners might have been taking preliminary steps to trespass on other land about four miles away. The Wensley family, Cuadrilla and a number of neighbouring landowners sought an order for possession of the land that had been occupied and injunctive relief preventing further trespass on the land that had been occupied and the neighbouring land. By the date of the hearing, the protestors had left the field in respect of which possession was claimed. A solicitor who appeared for the defendants conceded that a possession order could be made, but sought an adjournment of the balance of the claim.

HHJ Hodge QC, sitting as a judge of the High Court, made a possession order and adjourned the balance of the claims. However, he was satisfied that the claimants had made out a serious issue to be tried and that damages would not be an adequate remedy for any of the claimants if there were to be trespass on their land in connection with anti-fracking, environmental, or similar protests or events. He granted an interim injunction forbidding people from entering or remaining on, or obstructing, impeding or otherwise interfering with the activities of the claimants, their employees, agents, contractors or licensees on, any of the relevant parcels of land in connection with anti-fracking, environmental, or similar protests or events.

PROVISION OF INFORMATION

■ Bedi v The Information Commissioner

First-tier Tribunal General Regulatory Chamber Information Rights,
EA/2014/0191,
23 September 2014

Mr Bedi was assisting a Hounslow resident who was in housing need because she was living in two-bedroom accommodation even though she had five children. He became aware of a person who had lived alone locally in three-bedroom accommodation since 2002. He reported this to Hounslow in October 2013, but it considered that there was no evidence of tenancy fraud and closed the investigation. In January 2014, Mr Bedi asked Hounslow for a copy of that person's tenancy agreement. Hounslow refused on the ground that the information held was the tenant's personal data. Mr Bedi complained unsuccessfully to the Information Commissioner's Office (ICO). He then appealed to the First-tier Tribunal against the ICO's decision. The ICO applied for the appeal to be struck out on the ground that it had no reasonable prospect of success.

Judge NJ Warren, the Chamber President, found that the ICO's submission that disclosure of the tenancy agreement would be unlawful was unanswerable. Local authorities have duties to disclose information under the Freedom of Information Act (FoIA) 2000 and to protect personal data under the Data Protection Act (DPA) 1998. Rights under the FoIA do not trump an individual's right under

the DPA to have his/her personal data processed lawfully. The question in this case was whether Mr Bedi had a legitimate interest which made the disclosure necessary. A suspicion that a crime had been committed could not satisfy that test. In any event, Hounslow and the police were already co-operating in looking at allegations of fraud at Hounslow Homes Ltd. Judge Warren found that it was inevitable that the tribunal would uphold the ICO's decision and struck out the appeal.

HOUSING ALLOCATION

Local Government Ombudsman

Complaints

■ Waltham Forest LBC

14 001 146,
23 June 2014

The complainant lived outside the council's district, but asked to be considered under its allocation scheme because of her particular medical needs. Such applications were dealt with by the council's Social Needs/Disability Panel. In 2011 and 2012, the complainant submitted medical evidence to be considered by the panel. The council lost this evidence and did not ask the panel to consider her case. In October 2013, the council upheld a complaint and agreed that it had failed to forward the evidence to the panel. The complainant submitted more evidence, which the council again lost. When she complained, the council again agreed that it had failed to consider the evidence. Eventually, in February 2014, the panel considered the case but decided that no specific exceptional need to live in the borough had been established. The complainant sent in further medical evidence in March 2014, which the council again lost.

The ombudsman recorded that the council was introducing a document-imaging system later this year and expected that this would improve its record-management system. It had agreed to pay £150 to the complainant. The ombudsman declined to recommend any further remedy because the documents showed that the panel had eventually considered the available evidence and there was no fault in the way it had reached its decision under the allocation scheme.

■ Medway Council

13 018 272,
20 June 2014

On 1 September 2013, the council brought into effect a new housing allocation scheme containing a provision that applicants would only qualify for an allocation if they had lived in the council's district 'continuously for the two years prior to the application being made': HA 1996 s160ZA(7). The complainant's application was refused because he did not have the requisite period of residence. On his application for a review, he was notified that: 'Although we acknowledge that you are experiencing problems at your current accommodation, as you do not meet the local connection criteria we cannot consider your registration' (para 17).

The ombudsman found that the council's allocation scheme included a provision that there 'may be other exceptional circumstances in which the residency criteria may be disregarded … exceptional circumstances include, but are not limited to … other exceptional circumstances considered on a case by case basis' (para 16). The council's review decision did not indicate that that provision had been considered and, accordingly, the council was at fault. As a result, the complainant had suffered uncertainty in not knowing what decision the council would have reached if it had considered his individual circumstances. The ombudsman recommended that the council invite him to submit a new housing application, with any supporting evidence, so that he has an opportunity to say why he should be considered to have 'exceptional circumstances'.

■ Fareham BC

13 020 658,
30 May 2014

On 6 May 2013, the council adopted a new housing allocation scheme, which included more stringent qualifying classes based on having a local connection with its district. The complainant met the old conditions but not the new ones. He was not removed from the scheme but remained on it and, in November 2013, was about to be offered a property. At that point, the council checked his position and found that he did not meet the new qualifying conditions. It withdrew the offer of a property and removed him from the scheme.

The ombudsman found that the complainant should have been removed from the scheme when the policy changed. The allocation process was nearing its end when the council spotted its fault and withdrew the opportunity of the new property. That fault had raised the family's expectations of getting a house in the area in which they wanted to live. The council accepted the ombudsman's recommendation that it pay £100.

■ Newham LBC

13 006 979,
19 June 2014

When the complainant first joined the council's housing allocation scheme it did not consider his immigration status and eligibility. In early 2013, he bid for a property and was top of the shortlist. At that point, the council was unsure of his eligibility and suspended his application. The property was let to another applicant. There were delays by the council in considering his eligibility but, by August 2013, it had decided that he was eligible. It did not lift the suspension until January 2014 because it wanted to determine the earliest correct registration date under its scheme.

The ombudsman found that the council had been at fault in respect of the delay in making a decision on eligibility. Once the decision had been made, the suspension should have been lifted immediately. The ombudsman recommended that:

■ the council should remind its officers to send a written decision, with reasons, when they decide that an applicant is not eligible for an allocation, and supply information about the right to request a review of the decision; and

■ in circumstances where the council suspends an application while it resolves a question about the applicant's eligibility, it should ensure that this is done promptly.

HOMELESSNESS

Applications

Local Government Ombudsman

Complaint

■ Wandsworth LBC

13 009 118,
29 May 2014

The complainant and his wife (Mr and Mrs B) asked the council to help resolve their housing problems. On 3 May 2013, Mr B wrote to the council referring to his housing situation and added that 'we live under constant threat of homelessness' (para 16). A duty to enquire into the application under HA 1996 Part 7 (Homelessness) arose if the council had reason to believe that he may be threatened with homelessness: HA 1996 s184(1). No enquiries were made. The ombudsman said:

I accept that homelessness was not at the forefront of the representations made by Mr and Mrs B. But I do consider Mr B's letters, particularly the one of 3 May 2013 which specifically referred to homelessness, should have put the council on notice. At the least I consider the council should have explored with Mr and Mrs B whether they were threatened with homelessness. The council has now accepted a homelessness duty to them and placed them in temporary accommodation while it considered their situation. I consider it is reasonable to conclude that had the council considered their situation a year ago it would have come to the same decision. I therefore consider that Mr and Mrs B have been living in unsatisfactory accommodation for a year longer than they should. I consider the council should pay £500 in recognition of this failing (para 19).

Priority need

■ Ajilore v Hackney LBC

[2014] EWCA Civ 1273,
8 October 2014

The appellant had a troubled childhood and youth. He became involved in gang culture and crime and addicted to Class A drugs. His GP described considerable emotional distress within his childhood family home. In 2010, the appellant served 18 months of a 27 month prison sentence for possession of Class A drugs. He was released in 2011 and returned to the parental home. His mother obtained an injunction excluding him after he was allegedly violent towards her. In April 2012, he applied to the council for homelessness assistance and stated that he was staying in a drugs den.

On review, the council decided that he did not have a priority need for accommodation because he was not 'vulnerable'. It concluded that although he suffered from depression and there would be a risk of self-harm and suicide if he became street homeless – and that he would be at risk of relapsing to the use of drugs – those factors did not necessarily differentiate him from other ordinary street homeless persons. HHJ John Mitchell dismissed an appeal.

The Court of Appeal dismissed a second appeal. Although the reviewing officer had misquoted certain statistical material, the error had not been material. The other criticisms of the decision amounted to an over-analytical and technical approach. The reviewing officer had reached a conclusion open on the material before him. The court was bound to follow and apply the decision in *Johnson v Solihull MBC* [2013] EWCA Civ 752; [2013] HLR 39 and hold that the correct comparator when determining the appellant's vulnerability was the ordinary street homeless person.

■ Ijaola-Jokesenumi v UK

App No 45996/11,
4 September 2014

On an application for homelessness assistance, a local housing authority decided that the applicant, who was a Nigerian national, could not rely on her children to confer priority need because of their nationality and immigration status: HA 1996 s185(4). The applicant complained under article 14 of the convention, taken in conjunction with article 8, that the decision not to treat her as being in priority need was unlawfully based on her, and her children's, immigration status.

The UK government settled an application to the ECtHR for £3,000 with costs. The court then struck the application out of its list of cases in accordance with article 39.

Suitable accommodation

Local Government Ombudsman

Complaint

■ Ealing LBC

13 020 394,
3 June 2014

In July 2013, the complainant and her children became homeless. She applied to the council for assistance. On 19 July, the council placed the household in bed and breakfast (B&B) accommodation. On 24 July, the council accepted it owed the main housing duty: HA 1996 s193. In accordance with the Homelessness (Suitability of Accommodation) (England) Order 2003 SI No 3326, the council should have moved the family to self-contained temporary accommodation within a maximum of six weeks. Instead, they remained at the B&B for seven months.

The ombudsman found that the complainant and her children were subject to unnecessary delays by the council in connection with their temporary accommodation and that the delay caused inconvenience. The council offered its apologies and a payment of £500. The ombudsman considered that a reasonable remedy.

Reviews

Local Government Ombudsman

Complaint

■ Brighton and Hove City Council

13 015 710,
26 June 2014

On an application for homelessness assistance, the council decided that the complainant (Mrs X) did not have a priority need. On 20 January 2013, Mrs X e-mailed an officer contesting the council's decision. She knew by then that the council had lost her documents, and said that she did not know how the council could have made an adverse decision without those documents.

The officer did not treat the e-mail as a request for a review, but replied asking Mrs X to complete a form or e-mail another officer if she wanted to request a review. The reply also indicated that she should explain why she thought that the decision was wrong. The ombudsman found:

The law is clear. There is no requirement for an applicant to fill in a form, to send a review request to any particular officer, or to give any reasons for requesting a review … I remain of the view, therefore, that Mrs X's e-mail of 20 January 2013 was a review request and the council should have treated it as such (para 33).

The council agreed to take the following action:

■ pay Mrs X £200 in recognition of its failure to review its decision on her homelessness application; and

■ remind officers of what the law says about review requests and ensure that they forward any requests to the appropriate officer to deal with.

1 Available at: www.local.gov.uk/publications/-/journal_content/56/10180/6544302/PUBLICATION.
2 Available at: www.gov.uk/government/publications/anti-social-behaviour-order-statistics-england-and-wales-2013/anti-social-behaviour-order-statistics-england-and-wales-2013-key-findings.
3 Available at: www.which.co.uk/consumer-rights/problem/what-can-i-do-about-nuisance-neighbours.
4 Available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/358184/201406_Statutory_Homelessness.pdf.
5 Available at: http://wales.gov.uk/statistics-and-research/homelessness/?lang=en#/statistics-and-research/homelessness/?lang=en.
6 See: http://services.parliament.uk/bills/2014-15/tenanciesreform.html.
7 Available at: http://laghousinglaw.com/2014/10/02/retaliatory-eviction-a-solution/.
8 Available at: www.gov.uk/government/publications/model-agreement-for-a-shorthold-assured-tenancy.
9 Available at: www.rics.org/Global/Private_Rented_Sector_code.2014.pdf.
10 Available at: www.gov.uk/government/publications/how-to-rent.
11 Available at: www.tpos.co.uk/downloads/reports/TPO-Interim-Report-2014.pdf.
12 Available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/361556/Lettings_Agents_and_Property_Managers_redress_scheme_leaflet.pdf.
13 Available at: www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance.

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