a hospital; and the powers of mental health tribunals need to be reinforced and expanded to deal with appeals concerning such issues as consent to treatment, transfers to more secure hospitals, the use of means of restraint and the application of specific treatment measures.

Delays in prisoners with mental health problems being transferred to psychiatric hospitals, in some cases for several months, remain a problem. Further, the placement of prisoners with acute mental health conditions in segregation units is inappropriate. The CPT recommends that prisoners suffering from severe mental illnesses are transferred immediately to an appropriate mental health facility. High priority should be given to increasing the numbers of beds in psychiatric hospitals to ensure that inpatient healthcare units do not become a substitute for the transfer of a patient to a dedicated facility. Further, all prison staff should be trained to recognise the major symptoms of mental ill-health and understand referral procedures.

Committee on the Rights of Persons with Disabilities: concluding observations on the initial report of the UK

On 23 and 24 August 2017, the UN Committee on the Rights of Persons with Disabilities undertook a thorough scrutiny of the UK government's policies and response to the Convention on the Rights of Persons with Disabilities. It adopted these concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland on 29 August (CRPD/C/GBR/CO/1). Two paragraphs of positive comment were followed by over 70 paragraphs of significant concerns. Key areas of concern included:

- the fact that the UK has not adopted the human rights model of disability;
- the persisting occurrence of negative attitudes, stereotypes and prejudice towards people with disabilities in general and psychosocial, intellectual and neurological ones in particular;
- the high number of black people with disabilities compulsorily detained and treated against their will;
- the lack of support that people with psychosocial and/or intellectual disabilities receive in exercising their legal capacity and access to justice;
- the use of physical, chemical and mechanical restraint against people with psychosocial disabilities as well as practices such as segregation and seclusion;
- the high suicide rate among people with disabilities;
- insufficient affirmative action initiatives and provision of reasonable accommodation improving the possibility of employment for people with disabilities; and
- the impact of PIP and ESA on people with disabilities.

Various recommendations were made to address these and other issues.

UN special rapporteur on the right of everyone to enjoy the highest attainable standard of physical and mental health

The UN special rapporteur published a report in June 2017 (A/HRC/35/21) about the right of everyone to enjoy the highest attainable standard of mental health. The report makes a number of recommendations for states and all stakeholders to move towards mental health systems that are based on and compliant with human rights. The recommendations to states include:

- taking immediate measures to establish inclusive and meaningful participatory frameworks in the design of and decision-making around public policy, to include, inter alia, psychologists, social workers, nurses, users of services, civil society and those living in poverty and in the most vulnerable situations;
- taking immediate action to address harmful gender stereotypes, gender-based violence and access to sexual and reproductive health;
- stopping directing investment to institutional care and redirecting it to community-based services;
- investing in psychosocial services, which are integrated into primary care and community services to empower users and respect their autonomy;
- scaling up investment in alternative mental health services and support models;
- developing a basic package of appropriate, acceptable (including culturally) and high-quality psychosocial interventions as a core component of universal health coverage; and
- taking targeted, concrete measures to radically reduce medical coercion and facilitate the move towards an end to all forced psychiatric treatment and confinement.

1 www.kingsfund.org.uk/publications/what-are-priorities-health-and-social-care.
2 www.equalityhumanrights.com/en/pay-gaps.

Joanna Dean and Stephen Heath are lawyers at Mind.

Housing: recent developments

Jan Luba QC and Nic Madge highlight recent political and legislative developments as well as cases on human rights, possession, assured shorthold tenancies, long leases, letting agents, prosecutions, allocation, and homelessness.

Jan Luba QC

Nic Madge

Politics and legislation

Housing courts

In a speech to his party conference in October 2017, Sajid Javid MP, communities and local government secretary, announced that the UK government 'will consult with the judiciary on a new, specialist, Housing Court, so that we can get faster, more effective, justice. This will mean that every tenant has the security of knowing that if they're mistreated, or reasonable standards aren't met, they'll have somewhere to go. Somewhere with the power to put it right'.

Private rented sector

The House of Commons Communities and Local Government Committee has launched an inquiry into powers to tackle 'rogue landlords' in the private sector. The closing date for submissions is 24 November 2017 at noon.

Homelessness

The latest official homelessness statistics for England were published on 28 September 2017: *Statutory homelessness and prevention and relief, April to June (Q2) 2017: England* (Department for Communities and Local Government (DCLG)). They show that:

- Between 1 April and 30 June 2017, local housing authorities accepted 14,400 households as being statutorily homeless, ie, households that are owed a main homelessness duty to secure accommodation as a result of being unintentionally homeless and in priority need. The number is down one per cent on the previous quarter and down five per cent on the same quarter of last year.
- The number of households in temporary accommodation on 30 June 2017 was 78,180, up seven per cent on a year earlier, and up 63 per cent on the low of 48,010 on 31 December 2010.
- There were 6,660 households in bed and breakfast (B&B)-style accommodation as at 30 June 2017. This includes the 335 households from Grenfell Tower and the

surrounding area. Excluding Grenfell, of the 6,260 households in B&B, 2,710 (42 per cent) had dependent children or expected children, of which 1,200 had been resident for more than six weeks.
- Local authorities took action to prevent and relieve homelessness for 54,270 households between 1 April and 30 June 2017, down one per cent on the same quarter of 2016.

In its *Homelessness* report (HC 308), published on 13 September 2017, the National Audit Office (NAO) recommended that DCLG should:

- Develop and publish a strategy that sets out how it will achieve its objectives relating to homelessness. This should set out the reduction in homelessness it is aiming to achieve and the contribution it expects from different programmes across government.
- Work with local authorities to establish how they are making use of measures to tackle homelessness, in order to gain a full understanding of effectiveness and share best practice.
- Work with local authorities to ensure they are making the most effective use of temporary accommodation. This should include enabling local authorities to increase their use of the innovative short-term solutions they are taking.

The NAO also recommended that the UK government, led by the DCLG and the Department for Work and Pensions, should develop a much better understanding of the interactions between local housing markets and welfare reform in order to evaluate fully the causes of homelessness.

Later on 13 September 2017, the local government and social care ombudsman, Michael King, issued a response to the NAO report. He said:

Over the last three years we received almost 7,000 complaints and enquiries about housing issues. Around 20% were about homelessness services – an area which is an increasing proportion of our housing cases year-on-year.

More importantly, we frequently find fault in the way local authorities carry out and discharge their duties. For the investigations we completed in the same three-year period, we upheld 70% of complaints about homelessness services compared with 51% of complaints overall. In fact, we have issued two public interest reports in the past month alone on the subject.

Our investigations also echo the particular issues in London, with many councils either struggling to house families within their local community and placing out of the area, or being placed in temporary accommodation for too long. While I appreciate the pressures councils – particularly in London – are under, people should be supported properly and not be left to fall through the cracks.

The two public interest reports there mentioned are digested later in this article (see pages 41–42).

In order to assist local housing authorities in preparing for legislative changes likely to take effect in England in April 2018, independent consultant Mark Prichard has uploaded a new free guide: *Guide to the new homelessness duties under the Homelessness Reduction Act 2017* (12 August 2017).

Until 11 December 2017, the DCLG is consulting on a replacement set of statutory guidance to take account of the Homelessness Reduction Act 2017: *Homelessness Code of Guidance for Local Authorities: a consultation paper* (October 2017).

Unlawful evictions

WM Housing Group Limited is a social landlord. Under the Protection from Eviction Act (PEA) 1977, it is required to give its protected licensees 28 days' notice before an eviction. In July 2017, WM Housing reported to the social housing regulator that it had identified a breach of the Tenancy Standard in one of its temporary accommodation schemes. The scheme opened in May 2015. A number of residents who were asked to leave were not given sufficient notice as required by the PEA 1977. In some cases, individuals had been given no notice, and in other cases they had been given seven days' notice. The majority had found alternative accommodation, but some had not done so and may have been sleeping rough.

In September 2017, the regulator issued a regulatory notice stating that WM Housing had 'identified a number of actions to prevent a recurrence of this situation, and [was] reporting on progress to the regulator. The regulator will consider, in light of performance against those actions what, if any, further action to take in relation to the breach of the Tenancy Standard. The regulator is also considering the potential implications for its grading of WM Housing's governance': *Regulatory notice in respect of provider LH4471* (Homes & Communities Agency, September 2017).

Human rights

Article 6 and article 1 of Protocol No 1

- **Babynin v Russia**
  App No 12239/03,
  25 July 2017

Mr Babynin took part in the clean-up operation at the Chernobyl nuclear disaster site. In July 2002, the Staryy Oskol Town Court awarded him and his family a flat and 3,000 Russian rubles (approximately €100) in compensation for non-pecuniary damage. In October 2002, the Belgorod Regional Administration, the defendant in the claim, lodged an appeal against the judgment. In January 2003, the court ordered that 'the Belgorod Regional Administration should provide ... Mr Babynin ... and his family with housing premises, which satisfy sanitary and technical requirements, in their turn according to the housing waiting list of families having persons with disabilities and individuals who had taken part in the cleaning operation at the site of the Chernobyl nuclear plant'. In February 2003, a writ of execution was issued and enforcement proceedings were instituted. In April 2004, Mr Babynin received an occupancy voucher for a satisfactory flat. Mr Babynin complained that the prolonged non-enforcement of the 2002 judgment, as amended in January 2003, violated his 'right to a court' under article 6 of the European Convention on Human Rights (ECHR) and his right to the peaceful enjoyment of possessions as guaranteed in article 1 of Protocol No 1.

The European Court of Human Rights noted that it had already found a violation in a case with identical facts (*Malinovskiy v Russia* App No 41302/02, 7 July 2005). The court did not see any reason to reach a different conclusion in this case. It found violations of article 6 and article 1 of Protocol No 1 and awarded Mr Babynin €4,200 for non-pecuniary damage.

Possession claims

Anti-social behaviour

- **Midlothian Council v Greens**
  Sheriffdom of Lothian and Borders at Edinburgh,
  [2017] SC EDIN 57,
  8 September 2017

Ms Greens was the tenant of a semi-detached house under a Scottish secure tenancy. In 2014, complaints of anti-social behaviour were made. These included the constant banging of doors, running up and down non-carpeted stairs, dogs barking and wailing, shouting, swearing, arguments, heavy foot traffic and drug addicts attending at the property. In 2015, police visited the house and found 10g of diamorphine along with paraphernalia indicating that it was being supplied from the property. In April 2016, she was convicted of being concerned in the supply of diamorphine, contrary to Misuse of Drugs Act 1971 s4(3)(b). She was placed on a drug treatment and testing order for 15 months. Midlothian sought possession, relying on Housing (Scotland) Act 2001 Sch 2, Grounds 1, 2 and 7.

Sheriff T Welsh QC found the grounds proved. He considered it reasonable to make a possession order. Ms Greens knew that, under the terms of the lease, drug-dealing and anti-social behaviour were prohibited and the likely consequences of such conduct. Ten grams was a substantial amount of diamorphine. The landlord was reasonably entitled to take the view that serious drug misuse on the property was unacceptable and must result in eviction. Having heard evidence, the sheriff was satisfied that drug misuse continued at the property. After eviction, medical support and homeless accommodation would be available. He appointed 10 November 2017 as the date for repossession.

Assured shorthold tenancies

Deposits

- **Coppard v Barrington**[1]
  County Court at Basingstoke,
  29 August 2017

Susan Coppard granted an assured shorthold tenancy to two joint tenants, Carl Barrington and Victoria Creagh. They paid a deposit of £1,200. Joyce Barrington agreed to guarantee the tenants' obligations under the terms of the tenancy agreement. Ms Coppard protected the deposit within the time prescribed by Housing Act (HA) 2004 s213(3) and served the prescribed information on the tenants, pursuant to s213(6). The prescribed information was never served on Joyce Barrington. Following the service of notice pursuant to HA 1988 s21, the tenants vacated the property leaving arrears of rent of £3,167. Ms Coppard brought a claim against Joyce Barrington, seeking a money judgment in the sum of the arrears. Defending the claim, Ms Barrington asserted that she was a 'relevant person' within the meaning of HA 2004 s213(10) because she had given the tenants the money which they needed to pay the deposit, and because Ms Coppard's agent had been informed that this was the case. She therefore asserted that she was entitled to damages under s214, and that she could set off those damages against any

arrears for which she was found to be liable. Ms Coppard argued that a private arrangement in which one person gives money to another so that the latter is able to pay a tenancy deposit, within the meaning of s212(8), is insufficient to amount to having 'paid the deposit on behalf of the tenant': the monies had physically to be paid by that third party.

District Judge Nichols accepted Ms Coppard's arguments. Ms Barrington was not a 'relevant person'. He granted a money judgment for a sum equivalent to the arrears.

Long leases

Service charges

- **Dehavilland Studios Limited v Peries and Voysey**
  [2017] UKUT 322 (LC),
  5 September 2017

Dehavilland Studios (DHS) granted Ms Peries and Mr Voysey a long lease of a first-floor live/work unit that had been converted from a former factory. It was one of 41 flats in the building. The lessor covenanted to keep 'the retained parts … in good and tenantable repair and decorative condition and to repair repaint and redecorate the same as and when the landlord shall deem appropriate'. The lessor was entitled to recover the sums spent by way of the service charge. Ms Peries and Mr Voysey made an application to the First-tier Tribunal (FTT) under Landlord and Tenant Act 1985 s27A, arguing that sums to be spent on defective windows were not reasonable. DHS argued that the windows could be repaired. Ms Peries and Mr Voysey argued that the windows should be replaced. The FTT decided that both replacement and repair were reasonable options but that in its view replacement was the more reasonable. DHS appealed, arguing that the tribunal had applied the wrong test in that it had not determined that it was unreasonable for the lessor to repair the windows.

The appeal succeeded. HHJ Behrens noted that the FTT found that both replacement and repair to the windows would be reasonable but it preferred reinstatement. Having regard to *Havering LBC v MacDonald* [2012] UKUT 154 (LC); July 2012 *Legal Action* 41 and *Hounslow LBC v Waaler* [2017] EWCA Civ 45; March 2017 *Legal Action* 40, that was a course which was wrong. He concluded that it was open to the tribunal, on the experts' reports before it, to decide that the decision to repair the windows was not unreasonable even though (in its view) the better decision would have been to replace the windows. HHJ Behrens did not disturb that decision on appeal.

Letting agents

Fees

- **Camden LBC v Foxtons Ltd**
  [2017] UKUT 349 (AAC),
  25 August 2017

Judge Levenson found that Foxtons had breached the provisions of Consumer Rights Act 2015 s83(1), which provides that '[a] letting agent must … publicise details of the agent's relevant fees'. Such a list of fees must include 'a description of each fee that is sufficient to enable a person who is liable to pay it to understand the service or cost that is covered by the fee or the purpose for which it is imposed' (s83(4)(a)). The use of the blanket term 'administration fees' was not sufficient. He imposed a penalty of £4,500 for each of four breaches, totalling £18,000.

Prosecutions

- **R v Hu and Bewel Property Ltd**[2]
  Westminster Magistrates' Court,
  7 September 2017

Mr Hu and Bewel Property Ltd, a company of which he was sole director, let houses in multiple occupation that were in poor condition and put lives 'in danger'. There was a dangerous cooker, with exposed live electrical cable and a charred board underneath, and a rotten balcony.

For three offences of contravening the HA 2004 (the dangerous hob, the rotten balcony and exposed electrical cable), District Judge Roscoe fined Bewel Property Ltd £150,000. Mr Hu was fined £5,000 for the unsafe balcony and live electric cable.

For another property, which lacked a safe means of escape in the event of a fire and for a failure to supply gas and electrical certificates, Bewel Property Ltd was fined £50,000. For that property, Mr Hu was also individually fined £2,000 for not submitting gas certificates.

- **R v Garcha**
  Leicester Crown Court,
  8 September 2017

Mr Garcha was a letting agent in Kettering, Desborough and Corby. Between 2008 and 2012, he fraudulently generated significant profits at the expense of tenants and landlords by dishonestly increasing the cost of maintenance and safety work. For example, when one landlord queried the cost of safety checks, she was given invoices for £502.50, but these were fakes, as the contractor doing the work had only charged £166.25. Mr Garcha was also convicted of money laundering, VAT fraud and insurance fraud. In 2016, he was sentenced to two years and nine months in prison. Later, under the Proceeds of Crime Act 2002, he was ordered to pay a confiscation order of a little more than £1m.

Housing allocation

- **Complaint against Kettering BC**
  Local Government and Social Care Ombudsman Complaint No 16 012 028,
  3 August 2017

Mrs C had mobility and health problems. She lived with her young adult daughter, Miss D, and another younger daughter who was still a child. She applied to the council for an allocation of social housing. She sought a three-bedroom property so that she and her daughters could have a bedroom each.

The council decided that she was only eligible for two bedrooms under its allocations scheme because Miss D was a student living in university accommodation away from its area during university term time and could not be included in Mrs C's application. It relied on section 4.4 of its scheme, which defines 'dependent children' capable of being included on an application and reads:

… the council will consider whether there is a sufficient degree of permanence or regularity to constitute normal residence as a member of the family. The council may also take into account the demand for and supply of accommodation …

It decided Miss D's presence in Mrs C's home was not sufficiently permanent or regular. Mrs C complained to the ombudsman.

The ombudsman found that section 7.1 of the scheme defines a 'dependent child' as under 16 or between 16 and 18 and in, or about to begin, full-time education or training, and continues: 'Households containing a child who does not fit within this definition will need to be assessed to establish if they are dependent.' The council had been wrong to treat Miss D as a dependent child within the first part of the definition and there was no evidence it had considered whether any individual circumstances might bring Miss D under the second part. The council was therefore at fault for relying on parts of the scheme about 'dependent children'.

Section 4.4 of the scheme additionally reads:

Where the household includes other household members capable of living independently, for example, adult children … the council will assess the needs of the whole household, and if it is unable to meet this need through existing social housing in the borough, we may require those non-dependent members of the household to apply for housing separately.

Miss D might be considered capable of living independently but there was no evidence that the council considered how this part of its allocations scheme applied to her. Section 4.4 of the scheme also says:

The council will consider each applicant's individual circumstances when deciding whether to allow additional persons to be included on the application;

and:

In all circumstances, the council may decide whether a child or other person will be considered for rehousing as a member of the applicant's household.

Accordingly, the council had a discretion to include, or not include, Miss D on Mrs C's application. However, the evidence suggested that the council had considered some parts of its scheme that did not apply to Miss D, while not considering parts that might apply to her. The ombudsman was not persuaded the council reached the decision properly. That fault left Mrs C with avoidable uncertainty about what the council might have decided had it reached its decision properly.

In respect of a complaint about a further aspect of the way the council had interpreted the application of the scheme to Mrs C, the ombudsman said:

[T]he council is at fault for not telling Mrs C about the restriction when she expressly asked about it. It compounded this fault by replying inaccurately to our enquiries. We should not have had to ask twice to receive an accurate answer. The council must ensure its responses to us are correct (para 68).

In light of this example of the difficulties its own staff were having, the council accepted that its scheme was unclear and required reconsideration.

Homelessness

Applications and decision-making

- **Complaint against Lambeth LBC**
  Local Government and Social Care Ombudsman Complaint No 16 005 834,
  15 August 2017

Ms A applied to Lambeth for homelessness assistance in June 2015. It provided accommodation pending its decision. That was self-contained B&B accommodation outside its own area. It was not suitable for Ms A's autistic child. Representations were made by Ms A and her health visitor about the suitability of the accommodation but nothing was done. No decision on the homelessness application was made until almost a year after the date of application and only in response to pressure from Ms A's solicitor. The council then took no action until early 2017. Ms A remained in the unsuitable accommodation for over 20 months and throughout that period the council failed to conduct any review of its suitability.

The dereliction of the council's duties was so extensive that the ombudsman recommended that his report be considered at a full council or cabinet meeting. He also recommended £3,000 compensation and a payment of a further £1,700 towards storage costs for Ms A's possessions.

Priority need

- **Thomas v Lambeth LBC**[3]
  County Court at Central London, 16 March 2017

Ms Thomas suffered with depression and had a history of suicidal ideation and self-harm. Her medical advisers considered her to be vulnerable. On her application for homelessness assistance, the council decided that she did not have a priority need. That decision was confirmed on review. The reviewing officer relied on reports obtained from NowMedical.

On an appeal, HHJ Parfitt made two points on the content of those reports:

14. The first is that the conclusion expressed in those reports about the applicant not being significantly more vulnerable than an ordinary person is not something which is within the reference points for the expert: it is a matter for the decision maker to reach their own conclusion upon based on the evidence.

15. The second point is that it is unhelpful for these reports to identify problems that the appellant is not alleged to be suffering from (here a condition requiring urgent psychiatric intervention and/or a condition which would significantly impair her capacity) and then reach a conclusion based on the absence of those factors.

He held that any medical advice should properly focus on the applicant's personal medical and health conditions and the relative impact on her of homelessness compared with the ordinary vulnerability which arises when anyone is made homeless.

In allowing the appeal and quashing the reviewing officer's decision he stated:

17. None of these reports from Now Medical address the particularity of the appellant's circumstances. Their logic is (a) to refer to what the appellant's doctors say about her depression and suicidal ideation; (b) to say that what the appellant is suffering from is not serious psychotic episodes or inability to have rational or cogent thought; (c) to conclude that because the appellant is not within (b) that she is not more vulnerable than an ordinary person.

18. It is unfortunate and I think made the job of the reviewing officer much more difficult, that the reviewing officer was not given the benefit of a medical opinion which actually addressed the particular circumstances and particular consequences to the appellant of her condition. It might have helped had someone from Now Medical taken the time to see the appellant or indeed considered her medical records.

Intentional homelessness

- **Doka v Southwark LBC**
  [2017] EWCA Civ 1532, 17 October 2017

Mr Doka became homeless intentionally in 2010 when he lost rented accommodation because of rent arrears. Later, a Mr Theobald allowed Mr Doka to stay in his son's room, at a rent of £500 per month, while his son was away at university. When the son returned, Mr Doka sought homelessness assistance. On review, the council decided that he had not had 'settled' accommodation since becoming homeless intentionally. Recorder Hancock QC dismissed an appeal. Permission to appeal was granted to enable the Court of Appeal to consider whether accommodation could properly be considered 'temporary' rather than 'settled' under an occupation agreement for as long as two or three years (see [2016] EWCA Civ 1320; February 2017 *Legal Action* 50).

The Court of Appeal dismissed the appeal. Patten LJ stated:

Although that arrangement undoubtedly had a commercial aspect to it in that Mr Doka paid a not insignificant rent for his use of the room, the reviewing officer was in my view entitled to conclude that it was at all times a precarious arrangement in that it had a finite duration and was obviously one in which Mr Theobald would give priority to his son's need for the room. Mr Doka was required (and was agreeable) to vacate the room for the days when the son came home and when he ended his studies at university. This was an intermittent licence under which the prospect of continuation was always uncertain (para 20).

Duties

- **R (Goldsworthy) v Richmond Upon Thames LBC**
  Administrative Court, 22 September 2017

Mr Goldsworthy was seriously disabled and a wheelchair user. He was serving a sentence of life imprisonment. He required suitable accommodation in order to secure his release on parole. He applied to Richmond for accommodation. In November 2016, it accepted that he was owed the main housing duty, but it made no immediate offer of accommodation. In April 2017, Mr Goldsworthy sought a judicial review. In May 2017, the council provided accommodation. It said that, despite its best efforts, it had not been able to comply with its duties any earlier. That was because Mr Goldsworthy's risk profile and disability-related housing needs had made it exceptionally difficult to secure suitable accommodation any earlier.

On a renewed application for permission to seek judicial review, Mr Goldsworthy complained of: (1) indirect discrimination and/or failure to make reasonable adjustments under the Equality Act 2010; and (2) breach of Human Rights Act 1998 Sch 1 article 8.

Gilbart J refused permission. The fact that a non-disabled person might have been housed more quickly than Mr Goldsworthy did not establish prima facie discrimination, since the length of time taken might simply reflect market conditions. It was not alleged that the delay in provision resulted from any policy or practice of the council. As to article 8, limits on an authority's resources could be taken into account in deciding whether its conduct or omission amounted to an infringement of the ECHR right. In the circumstances, the claim under article 8 was not reasonably arguable.

Reviews

- **Complaint against Kettering BC**
  Local Government and Social Care Ombudsman Complaint No 16 012 028, 3 August 2017

Mrs C had mobility and health problems. When she applied for homelessness assistance in 2015, the council secured accommodation for her pending its decision: HA 1996 s188. The house provided did not have a stairlift. This affected Mrs C's ability to get to her bedroom and bathroom. Mrs C reported that she often slept downstairs and had to wash using the downstairs sink. There was no secure storage for her mobility scooter, which was damaged and had the battery stolen. When the council notified her that she was owed the main homelessness duty (s193), it provided the same accommodation in performance of that duty but failed to notify a right to a review of the question of the suitability of the accommodation.

On a complaint, the ombudsman said:

12. The council did not tell Mrs C of her review right. That was fault. The council compounded this fault by still not offering Mrs C the review right when she expressed unhappiness with the accommodation, evidently implying she believed it unsuitable, including at all three stages of the council's complaints procedure. Only during our investigation did the council admit this failure.

13. This was a significant fault because Mrs C was entitled to a proper suitability review in the way the law prescribes and because the council's view about accommodation's suitability is not necessarily final as applicants can go to court. The council has now changed its standard letters and advised staff to ensure they give homeless people their review rights in future.

In response, the council agreed to notify a decision on the suitability review to Mrs C and the ombudsman within eight weeks: HA 1996 ss202–203. That did not happen. The council said that was because Mrs C had not applied for a review. Eventually, in July 2017, the council notified a decision on review.

The ombudsman recommended a review of the council's standard letters and procedures, an apology and a payment of £500.

1 Oliver Kew, solicitor, Hewetts, Reading, and Riccardo Calzavara, barrister, London.
2 'Landlord who put lives at risk fined £200,000', *The Times*, 19 September 2017.
3 Transcript available at: https://431bj62hscf91kqmgj258yg6-wpengine.netdna-ssl.com/wp-content/uploads/2017/10/Thomas-v-Lambeth.pdf.

Jan Luba QC and Nic Madge are circuit judges. They would like to hear of relevant housing cases in the higher or lower courts. They are grateful to the colleagues at note 1 above for providing details of the judgment.