

**Monthly Law Update |  
Social Housing  
August 2019**

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## Introduction

As part of our commitment to help you keep up with the law and comply with registered provider standards, this monthly law update covers the current legal issues affecting the social housing sector in England.

It includes the main legislative and case law developments and statutory guidance issued in connection with the Social Housing sector from the last month (July 2019) together with links to the relevant sources where you can obtain further information.

It is not intended to be exhaustive and is designed to give you an overview of important recent developments.

If you have any concerns about any of the developments outlined in this update, or if you require any advice on the effect of the developments or on how to respond appropriately, please contact:



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# Data, privacy and cyber security

## Data protection and cyber round up

(TLT Legal Insight | 31 July 2019)

We cover some of the key developments over the last couple of months, what's on the horizon and how to keep your business compliant and prepared. In this round-up we report on: Artificial intelligence and discrimination bias: the myths surrounding cookies and similar technologies; the first GDPR fines; data processing through video devices and key dates and other things to look out for.

## New plans to make it safer for people to confirm their identity online

(Cabinet Office | 19 July 2019)

A new call for evidence will explore the role of government and the private sector in the development of digital identities - the way people prove they are who they say they are using digital technology - and seek views on how to achieve higher levels of trust between the public and organisations checking their identities.

## ICO announces intention to issue record fine for BA data breach

(TLT Opinion | 8 July 2019)

Over a year after the GDPR came into effect, the ICO's announcement that it intends to fine BA over £183m for last year's data breach finally gives us an indication of where fines might fall for major security breaches.

# Employment

## Pregnancy and maternity discrimination: extending redundancy protection for women and new parents

(Department for Business, Energy & Industrial Strategy | 22 July 2019)

The government has published a response to its consultation on extending redundancy protection for pregnant women and new parents returning from maternity leave, adoption leave and shared parental leave.

## Good Work Plan: Proposals to support families

(Department for Business, Energy & Industrial Strategy | 19 July 2019)

The Government has launched a consultation calling for views on changes to parental leave entitlements to ensure they better reflect our modern society and the desire to share childcare more equally. It also sets out how the government is looking to introduce a new Neonatal Leave and Pay entitlement, for parents of premature and sick babies who need to spend a prolonged period in neonatal care following birth.



## **Good Work Plan: one-sided flexibility - addressing unfair flexible working practices**

**(Department for Business, Energy & Industrial Strategy | 19 July 2019)**

This issue exists within some parts of the labour market, where employers misuse flexible working arrangements, creating an unpredictability in working hours, income insecurity and a reluctance among workers to assert basic employment rights. This consultation seeks views on: providing a right to reasonable notice of working hours and providing workers with compensation for shifts cancelled without reasonable notice.

## **Employment Law Focus: Summer issues**

**(TLT Podcast | 18 July 2019)**

From air con wars and dress codes to live streaming sports and unexplained absences, summer can present a unique raft of challenges for HR and legal teams.

## **Blurred lines: when employees' social media posts are your concern**

**(TLT Legal Insight | 17 July 2019)**

Employers are now realising that they need to take firm action against online misconduct outside the workplace, but just when do social media posts become an employer's business?



## **Domestic Abuse Bill**

**(House of Commons | 16 July 2019)**

The Domestic Abuse Bill has been introduced into Parliament and is awaiting a Second Reading in the House of Commons. Clause 56 amends Part 4, Housing Act 1985 so that where a local authority are re-housing someone who was previously a secure tenant or an assured tenant of a Private Registered Provider of Social Housing and that re-housing is as a consequence of the person being a victim of domestic abuse, the authority cannot offer a flexible tenancy but must offer a secure tenancy.

## **Consultation on Sexual Harassment in the Workplace**

**(Government Equalities Office | 11 July 2019)**

This consultation aims to gather evidence about whether the current laws on protecting people from sexual harassment in the workplace are effective.

## **Can you bypass collective bargaining?**

**(TLT Legal Insight | 8 July 2019)**

If you are in the process of agreeing terms via collective bargaining, or already have agreed collective terms through an established bargaining unit, stringent restrictions apply on negotiating directly with employees.

## Health and safety

### **Whirlpool accepts need for recall following government intervention**

**(Department for Business, Energy & Industrial Strategy | 10 July 2019)**

Whirlpool to issue product recall of unmodified tumble dryers: consumers with an unmodified, affected tumble dryer will be entitled to new replacement machine. The power to serve a recall notice is set out in Regulation 15 of General Product Safety Regulations 2005. This is the first intervention of this kind, following the establishment of the OPSS in January 2018. No other European country has used the recall process in this way and on this scale before – including the recall of appliances which have been in use for some time.

### **Approved Document B 2019 edition: circular 02/2019**

**(Ministry of Housing, Communities & Local Government | 5 July 2019)**

The government has published new editions of Building Regulations Approved Document B (Fire Safety) Volume 1: Dwellings and Volume 2: Buildings other than dwellings, which will come into force on 30 August 2019.

## Housing

### **Forward v Aldwyck Housing Group Ltd**

**(BAILII | 29 July 2019)**

The Court of Appeal has dismissed an appeal against a possession order made against a disabled tenant. This provides further guidance to registered providers on the issue of the Public Sector Equality Duty.

### **A new deal for renting: resetting the balance of rights and responsibilities between landlords and tenants**

**(Ministry of Housing, Communities & Local Government | 21 July 2019)**

This consultation seeks views on implementing the government's decision to remove Section 21 of the Housing Act 1988 and improving section 8 eviction grounds. This consultation closes on 12 October 2019



### **Brokenshire unveils new measures to stamp out 'poor doors'**

**(Ministry of Housing, Communities & Local Government | 20 July 2019)**

New measures to tackle stigma and help end the segregation of social housing residents in mixed-tenure developments have been unveiled by Communities Secretary Rt Hon James Brokenshire MP.

## **Regulator shares messages from its Consumer Regulation Review**

**(Regulator of Social Housing | 19 July 2019)**

The Regulator of Social Housing has today shared the main themes and learning points from its consumer regulation work over the last year. The lessons from the review focus on the importance of registered providers of social housing ensuring there are effective systems in place to maintain compliance with the consumer standards including expectations that tenants' homes are safe and well-managed.

## **Electric vehicle chargepoints in residential and non-residential buildings**

**(Department for Transport and Office for Low Emission Vehicles | 15 July 2019)**

Proposals to alter existing residential and non-residential buildings regulations to include a requirement for electric vehicle chargepoint infrastructure. This consultation closes at 11:45pm on 7 October 2019

## **Housing Health and Safety Rating System: outcomes of the scoping review**

**(Ministry of Housing, Communities & Local Government | 11 July 2019)**

In October 2018 the government launched a scoping review to consider whether the Housing Health and Safety Rating System (HHSRS) should be updated and, if so, to what extent. This review has now reported, and the Minister for Housing and Homelessness Heather Wheeler has announced that there will be a comprehensive overhaul of the HHSRS to begin later this year. The HHSRS is used by local authorities to assess a range of potential hazards in rented properties, such as damp, excess cold and electrical faults as well as fire and falls. But it hasn't been updated in over 12 years and landlords, tenants and local authorities say it is complicated and inefficient to use.

## **Livewest Homes Ltd v Bamber [2019] EWCA Civ 1174**

**(BAILII | 10 July 2019)**

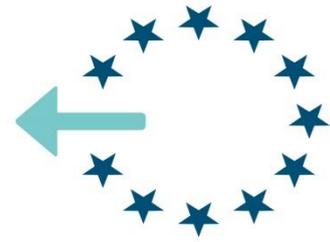
Assured shorthold tenancies can be brought to an end by a landlord in accordance with s.21, Housing Act 1988 (service of a notice giving at least two months' notice);

## **The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2019**

**(Legislation.gov.uk | 2 July 2019)**

This Order amends the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. Article 2 excludes from article 36A fee free introductions by a registered social landlord of an individual who seek to enter into a credit agreement to credit unions, community benefit societies, community interest companies limited by guarantee, registered charities, subsidiaries of registered charities, and subsidiaries of registered social landlords. This exclusion will allow registered social landlords to refer tenants, or potential tenants, to such entities without requiring authorisation from the Financial Conduct Authority





## Landlord and tenant

### What does Brexit frustration mean for your lease?

(TLT Opinion | 25 July 2019)

Earlier this month, the European Medicines Agency (EMA) withdrew its appeal against the High Court ruling that its lease was still valid and Brexit did not operate to frustrate it.

## Planning and environment

### Consultation outcome: Biodiversity net gain: updating planning requirements

(Department for Environment, Food & Rural Affairs | 23 July 2019)

The Department for Environment, Food and Rural Affairs (Defra) and the Ministry of Housing, Communities and Local Government (MHCLG) published the government response to their December 2018 consultation on requiring a biodiversity net gain for new housing and commercial development.

### Guidance on 5 year housing land supply and Housing Delivery Test.

(Ministry of Housing, Communities & Local Government | 22 July 2019)

Ministry of Housing, Communities and Local Government (MHCLG) published guidance on the five-year housing land supply (5HLS) and the Housing Delivery Test (HDT).

### Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019

(Legislation.gov.uk | 9 July 2019)

The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 (SI 2019/1103) have been made and come into force on 1 September 2019.



## Tax

### Capital Allowances (Structures and Buildings) Regulations 2019

(Legislation.gov.uk | 4 July 2019)

The Capital Allowances (Structures and Buildings) Regulations 2019, introducing capital allowances for structures and buildings have been made.

## Welfare and health

### Advancing our health: prevention in the 2020s

(Department of Health and Social Care | 22 July 2019)

A new Government Green Paper seeks views on proposals to tackle the causes of preventable ill health in England. The paper says that over the next decade, home adaptations, assistive technology, and supported housing will be “more important than ever” to the UK’s future health agenda. The consultation closes on 14 October 2019.

If you have any concerns or require any advice on the implications of any of the developments reported in this update, please contact **David Isaacson** at:

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