

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

Contents

- Introduction 1
- Commercial 2
- Data, Privacy and Cyber Security 2
- Energy 2
- Employment..... 2
- Health and safety..... 2
- Housing..... 2
- Planning and environment..... 6
- Real estate 6
- Tax..... 6

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.

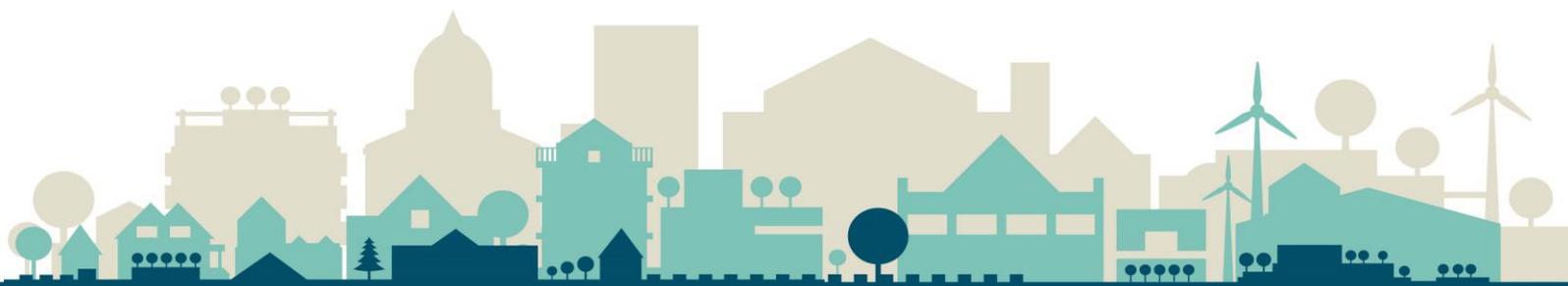
It includes the main legislative and case law developments and statutory guidance issued in connection with the Social Housing sector from the last month (June 2019) together with links to the relevant sources where you can obtain further information.

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:



David Isaacson
Partner

T +44 (0)333 006 0220
david.isaacson@TLTsolicitors.com



Commercial

Broad new measures to ensure small businesses get paid on time

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

For the first time large businesses could be fined for failing to pay smaller suppliers on time as part of a robust package of measures unveiled today by Small Business Minister.

Small Business Guide: Response & Recovery

National Cyber Security Centre | 12 June 2019

New National Cyber Security Centre Guidance that helps small to medium sized organisations prepare their response to and plan their recovery from a cyber incident.

Data, Privacy and Cyber Security

Data protection and cyber round up

(TLT Legal Insight | 21 June 2019)

Keep up-to-date with data protection and cyber security news with our round-up. We cover some of the key developments in the last quarter, what's on the horizon and how to keep your business compliant and prepared.

Former customer services officer fined after unlawfully accessing personal data

(Information Commissioner's Office | 7 June 2019)

A former customer services officer at Stockport Homes Limited (SHL) has been found guilty of unlawfully accessing personal data without a legitimate reason to do so.

Energy

The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2019 (SI 2019/1052)

(Legislation.gov.uk | 26 June 2019)

The Renewable Heat Incentive Scheme and Domestic Renewable Heat Incentive Scheme (Amendment) Regulations 2019 (SI 2019/1052) (RHI Amendment Regulations 2019) were made on 26 June 2019 and come into force on 17 July 2019. They are accompanied by an [explanatory memorandum](#).

Employment

Employment law podcast

(TLT Podcast | 20 June 2019)



We comment on the legal and practical complexities linked to protections for religious and philosophical beliefs. We also look at Brexit and how the EU Settlement Scheme is performing, a new case on working time and the current consultation on extending maternity rights, including our thoughts on the proposals.

4 lessons from the Israel Folau conflicting beliefs case

(TLT Opinion | 14 June 2019)

Social media amplifies discrimination issues to the extent that they can cross borders and pose difficult questions for employers. In this article, we look at the key issues to consider when protection from religious discrimination collides with freedom of expression, particularly in the context of the dissemination of views via social media.

What should employers expect post #MeToo?

(TLT Legal Insight | 12 June 2019)

The House of Common's Women and Equalities Committee report on the use of Non Disclosure Agreements has been published. We summarise the recommendations and provide guidance on how employers should respond.

Health and safety

Balconies on residential buildings: advice note

(Ministry of Housing, Communities & Local Government | 24 June 2019)

This advice note provides advice on the risks arising from balconies on residential buildings. This advice note is written for residents and building owners of residential buildings with multiple dwellings (i.e. blocks of flats), although the principles may also apply to other building types.

The Regulatory Reform (Fire Safety) Order 2005: call for evidence

(Home Office | 6 June 2019)

This call for evidence seeks views and evidence on the Regulatory Reform (Fire Safety) Order 2005 for England in workplaces and the parts used in common in multi-occupied residential buildings. This consultation closes on 31 July 2019. The call for evidence complements the government's consultation, Building a Safer Future: Proposals for reform in the building safety regulatory system.

Housing

Government confirms intention to outlaw new ground rents and leasehold houses

(TLT Legal Insight | 4 July 2019)

Ground rents will be restricted to £0 in future leases and new long leases of houses will be banned, subject to limited exemptions. Those are the two headline measures set out in the government's eagerly-awaited response to last autumn's consultation on leasehold reform in England. We previously wrote about the consultation [here](#).

The Queen (On The Application Of Z And Another) v (1) London Borough Of Hackney (2) Agudas Israel Housing Association Limited

(BAILII | 27 June 2019)

A housing association set up to house Orthodox Jews has again seen a discrimination claim against it dismissed in court.



Tenancy deposit reform: a call for evidence

(Ministry of Housing, Communities & Local Government | 27 June 2019)

A call for evidence on barriers tenants face providing a second deposit, asking views on innovative approaches to help tenants move more easily. The consultation closes on 5 September 2019.

Redress for purchasers of new build homes and the new homes ombudsman: a technical consultation

(Ministry of Housing, Communities & Local Government | 27 June 2019)

The government has previously indicated an intention to establish a New Homes Ombudsman to deal with disputes about the quality of new-build homes. This consultation paper seeks views on technical matters to do with the role of the Ombudsman (e.g. who should be required to submit to the jurisdiction of the Ombudsman, how the government can promote awareness of any new scheme). The consultation closes on 22 August 2019.

PM launches new drive to tackle barriers faced by disabled people

(Ministry of Housing, Communities & Local Government | 25 June 2019)

Injustices faced by disabled people in the workplace, at home and in the community will be tackled head-on through a new package of measures ordered by the Prime Minister. Higher accessibility standards for new housing, an overhaul of statutory sick pay, and greater workplace support are part of renewed efforts to ensure disabled people can fully participate in society.

Consultation on changes to the Accounting Direction: response published

(Regulator of Social Housing | 25 June 2019)

The Regulator of Social housing has published the outcomes from the Consultation on changes to the Accounting Direction. The new Accounting Direction takes effect for accounting periods commencing on or after 1 January 2019. The Decision Statement contains the final outcome of the consultation.



Consultation on changes to the intervention, enforcement and use of powers guidance

(Regulator of Social Housing | 21 June 2019)

The Regulator of Social Housing is running an 8-week consultation on changes to its guidance on intervention, enforcement and use of powers. The proposed updates reflect legislative changes, including the introduction of the Housing and Administration regime, the Co-operative and Community Benefit Societies Act 2014 and the move to a standalone status for the Regulator.

Draft Domestic Abuse Bill report published by Joint Committee

(Parliamentary Joint Committee on the Draft Domestic Abuse Bill | 14 June 2019)

The Parliamentary Joint Committee on the Draft Domestic Abuse Bill published its report on the Bill and called for it to be amended to give greater protection to victims of domestic abuse. In respect of the accommodation needs of domestic abuse survivors, the Committee welcomed the Government's announcement that it plans to introduce a statutory requirement for accommodation support services in England to be provided for survivors.

Samuels (Appellant) v Birmingham City Council (Respondent) [2019] UKSC 28

(Supreme Court | 13 June 2019)

The Supreme Court has allowed the appeal in *Samuels v Birmingham City Council* (CA (Civ Div) and quashes the council's decision. The Supreme Court states the Homelessness (Suitability of Accommodation) Order 1996 requires the authority to take into account all sources of income, including all social security benefits. There is nothing in it to require or justify the exclusion of non-housing benefits of any kind. It also requires consideration of the applicant's "reasonable living expenses", which necessitates an objective assessment, not simply the subjective view of the case officer.

Updates: Capital Funding Guide

(Homes England | 11 June 2019)

Homes England has updated the following Chapters of the Capital Funding guide:

- Chapter 6. Programme Management: Section 4.2.7 has been updated to clarify the warranty requirements in respect of different scheme types
- Chapter 9. Procurement and Scheme Issues: Section 3.6 has been added to clarify the valuation requirements for different scheme types
- Chapter 10. Finance: Section 3.6 has been updated to clarify the warranty requirements in respect of different scheme types

Leasehold investigation

(Competition and Markets Authority | 11 June 2019)

The Competition and Markets Authority (CMA) announced an investigation into potential breaches of consumer protection law in the leasehold housing market. The concerns raised by the CMA include the potential misselling of leasehold properties, and potentially onerous and unfair contract terms in relation to ground rents, service charges, fees charged for consents and licenses and other charges relating to leasehold land.



Value for Money metrics - Technical note guidance

(Regulator of Social Housing | 7 June 2019)

This note includes the metrics for providers to report on through their Annual Accounts. The Regulator has updated the technical guidance for the VfM metrics, setting out the FVA reference lines, which providers can refer to when calculating the metrics. The update reflects minor changes that have been made to the 2019 FVA template. It also includes an additional note for small providers to help them calculate the metrics as they are not required to submit an FVA. The guidance was originally in the form of a separately published annex. Since June 2019, it has been incorporated as an annex in the Technical note.

Planning and environment

Clarity in drafting planning permissions is vital

(TLT Legal Insight | 4 July 2019)

Following the London Borough of Lambeth's appeal, the Supreme Court has ruled that the interpretation of the planning permission should restrict the planning permission in the way intended by the local authority.

Housing for older and disabled people: guidance

(Ministry of Housing, Communities & Local Government | 26 June 2019)

Guides councils in preparing planning policies on housing for older and disabled people.

Real estate

BRE announces BREEAM In-Use Update – Autumn 2019 – in response to market drivers and international expansion

(BREEAM | 4 June 2019)

BRE has announced the planned update of BREEAM In-Use, which is scheduled to be released in Autumn 2019. The update will see many improvements to the current scheme and include an expansion of its capabilities to assess all types of residential properties. This includes both multifamily developments, such as apartment blocks, and individual homes. The updates will enable clients for the first time to assess the performance of their entire residential portfolios, demonstrating its sustainability directly and through other benchmarks such as GRESB.

Tax

Capital Allowances: Structures and Buildings Allowance

(HM Revenue & Customs | 18 June 2019)

HMRC has published a revised draft of the [Capital Allowances \(Structures and Buildings Allowances\) Regulations 2019](#) alongside a TIIN and summary responses to the consultations on the Autumn 2018 Budget technical note and the original draft of the regulations. This Tax Information and Impact Note is about a new tax relief, the Structures and Buildings Allowance, for businesses incurring qualifying expenditure on new structures and buildings on or after 29 October 2018.

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:

+44 (0)333 006 0220 or david.isaacson@TLTsolicitors.com.



tltsolicitors.com/contact

Belfast | Bristol | Edinburgh | Glasgow | London | Manchester | Piraeus

TLT LLP and TLT NI LLP (a separate practice in Northern Ireland) operate under the TLT brand and are together known as 'TLT'. Any reference in this communication or its attachments to 'TLT' is to be construed as a reference to the TLT entity based in the jurisdiction where the advice is being given. TLT LLP is a limited liability partnership registered in England & Wales number OC308658 whose registered office is at One Redcliff Street, Bristol, BS1 6TP.

TLT LLP is authorised and regulated by the Solicitors Regulation Authority under ID 406297.

In Scotland TLT LLP is a multinational practice regulated by the Law Society of Scotland.

TLT (NI) LLP is a limited liability partnership registered in Northern Ireland under ref NC000856 whose registered office is at River House, 48-60 High Street, Belfast,

BT1 2BE. TLT (NI) LLP is regulated by the Law Society of Northern Ireland under ref 9330.

TLT LLP is authorised and regulated by the Financial Conduct Authority under reference number FRN 780419. TLT (NI) LLP is authorised and regulated by the Financial Conduct Authority under reference number 807372. Details of our FCA permissions can be found on the Financial Services Register at <https://register.fca.org.uk>