

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

Contents

- Introduction 1
- Data protection 2
- Employment 2
- Health and safety 3
- Housing 4
- Planning and environment 5
- Procurement 6
- Real estate 6
- Tax 7
- Welfare 7

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.

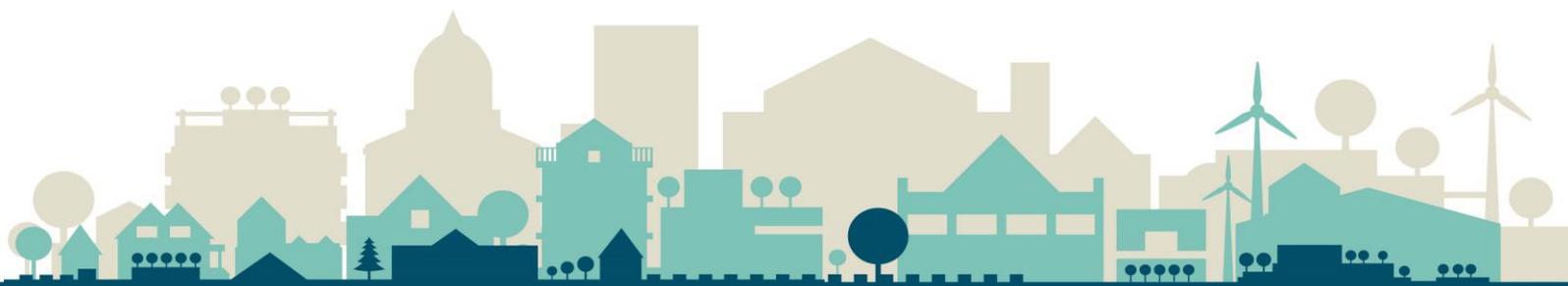
It includes the main legislative and case law developments and statutory guidance issued in connection with the Social Housing sector from the last month (May 2019) together with links to the relevant sources where you can obtain further information.

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



Data protection

Practical tips for managing breaches and breach notification | GDPR Periscope series

(TLT Legal Insight | 28 May 2019)

It has now been one year since the GDPR came into force, so what better time to give your data breach response procedure a health check.

Employment

Royal Mencap Society v Tomlinson-Blake [2018] EWCA Civ 1641

(Supreme Court, Permissions to Appeal | February 2019)

As we [reported last July](#), the Court of Appeal made a widely welcomed ruling when it decided that time spent sleeping during a night shift should not count as 'working time' for the purposes of calculating the national minimum wage. As expected, the claimants in this litigation have lodged an appeal against that decision and a hearing at the Supreme Court will take place on 12 and 13 February 2020. However, a decision is unlikely to be available until later in 2020, so the sector will have a bit longer to wait before definitive guidance is provided on this question.

Can you pay women on maternity leave more than men on parental leave?

(TLT Legal Insight | 28 May 2019)

In an eagerly awaited judgment, the Court of Appeal has resolved the question of whether employers must equalise shared parental leave pay and maternity pay. The Court of Appeal's conclusion, in the joined appeals of *Ali v Capita Customer Management Limited* and *Chief Constable of Leicestershire v Hextall*, is that paying women on maternity leave more than men on shared parental leave is neither discriminatory nor a breach of equal pay legislation.

Pregnancy and maternity discrimination: Chair's Commons Bill pushes for new protections

(Women and Equalities Committee | 20 May 2019)

The Chair of the Women and Equalities Committee, Maria Miller MP, is today pushing for new protections for pregnant women and mothers by introducing a 10-minute Rule Bill in the House of Commons. The Pregnancy and Maternity (Redundancy Protection) Bill 2019 seeks to prohibit redundancy during pregnancy and maternity leave and for six months after the end of the pregnancy or leave, except in specified circumstances, and for connected purposes.

Baldeo v Churches Housing Association of Dudley and District Ltd [2019] UKEAT/0290/18

(Employment Appeal Tribunal | 7 May 2019)

The Employment Appeal Tribunal allowed an appeal and held that, where an employer did not know about an employee's disability (depression) at the time of dismissal, but was told about it at the appeal hearing, the dismissal could still be discriminatory under section 15 of the Equality Act 2010.

It has now been one year since the GDPR came into force, so what better time to give your data breach response procedure a health check?

Health and safety

New regulatory regime for fire safety in high-rise buildings to be developed

(Welsh Government | 21 May 2019)

Housing and Local Government Minister Julie James will consider new legislation to replace the current Fire Safety Order and a new building control process. This is part of the government's response to the Building Safety Expert Group's Road Map, which was established to provide a 'roadmap' for improving fire safety in high-rise buildings following Dame Judith Hackitt's independent report in the wake of the Grenfell disaster.

Letter to stock-owning local authorities about the consumer standards

(Regulator of Social Housing | 17 May 2019)

The Regulator of Social Housing wrote to Chief executives of local authorities who own housing stock and are on its register. The letter reminds LAs of their obligations under the Regulator's consumer standards, particularly with respect to the Home Standard expectations on health and safety.

Government to fund and speed up vital cladding replacement

(Ministry of Housing, Communities & Local Government | 9 May 2019)

Around £200 million will be made available to remove and replace unsafe cladding from around 170 privately owned high-rise buildings. The government will fully fund the replacement of unsafe aluminium composite material (ACM) cladding on high-rise private residential properties where building owners have failed to do so.

Residents encouraged to have their say to improve building safety

(Ministry of Housing, Communities & Local Government | 6 June 2019)

The government is inviting views on a new building safety regime, as it seeks to bring forward new legislation to keep residents safe. This consultation builds on the recommendations from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety. It proposes fundamental reform of building safety requirements. The consultation closes on 31 July 2019.

The government is inviting views on a new building safety regime, as it seeks to bring forward new legislation to keep residents safe.



Housing

Committee launch inquiry into long-term delivery of social and affordable rented housing

(Housing, Communities and Local Government Committee | 31 May 2019)

The Housing, Communities and Local Government Committee has launched an inquiry to examine the long-term delivery of social and affordable rented housing. It will investigate the effectiveness of the Government's current strategies to boost social and affordable rented housing provision. Comments by 12 July 2019.

Consultation on a new Rent Standard from 2020

(Regulator of Social Housing | 7 May 2019)

The Regulator is proposing to replace the existing 2015 Rent Standard with a new Rent Standard for registered providers of social housing from 1 April 2020. This consultation closes on 30 July 2019

The Renting Homes (Wales) Act 2016: what is it and how can you prepare?

(TLT Legal Insight | 3 June 2019)

When it eventually comes into force, the long-awaited Renting Homes (Wales) Act 2016, which received royal assent back in January 2016, will overhaul the private rented sector in Wales.

London and Quadrant HR v Patrick [2019] EWHC 1263 (QB)

(BAILII | 23 May 2019)

The High Court has dismissed an appeal by a tenant against a possession order which relied on a defence alleging a breach of the Equality Act 2010 and a failure to comply with the public sector equality duty (PSED) under section 149 of that Act.

Committee welcomes CMA investigation into leasehold mis-selling

(Housing, Communities and Local Government Committee | 16 May 2019)

The Housing, Communities and Local Government Committee has welcomed the commitment by the Competition & Markets Authority (CMA) to investigate the mis-selling of leasehold properties.

Guide on becoming a registered provider

(Regulator of Social Housing | 15 May 2019)

The Regulator of Social Housing has published a guide for providers of social housing considering applying to register with RSH and for organisations advising potential applicants.

Government unveils new support for survivors of domestic abuse

(Ministry of Housing, Communities & Local Government | 13 May 2019)

The consultation seeks views on the government's proposals for a new approach to support victims of domestic abuse and their children in accommodation-based services in England. It is consulting on a new delivery model for accommodation-based support. This includes the introduction of a statutory duty on local authorities to provide support that meets the diverse needs of victims of domestic abuse and their children, ensuring they have access to provision that is right for them. The consultation closes on 2 August 2019.



Practice Guide 47: Transfers of Public Housing Estates

(HM Land Registry | May 2019)

The Land Registry has updated Practice Guide 47 (Transfers of Public Housing Estates). It contains details of the documents that the Registry will require as part of the registration process and a form of wording to be registered against the title in respect of properties which benefit from a preserved right to buy.

Wilcock v Guinness Partnership Ltd [2019] UKUT 146 (LC)

(BAILII | 7 May 2019)

Upper Tribunal case on whether a tenant was liable to pay a service charge in respect of rubbish collection. The tenancy agreement contained a detailed list of items and services for which the respondent was entitled to charge a service charge. That list did not include rubbish collection or disposal. There was no contractual basis for charging those costs to Mr Wilcock.

The Assured Tenancies and Agricultural Occupancies (Forms) (England) (Amendment) Regulations 2019

(Legislation.gov.uk | 7 May 2019)

These Regulations, which come into force on 1 June 2019, amend the Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (the principal Regulations). Regulation 2 substitutes a new Form No. 6A for the equivalent form prescribed in the principal Regulations. Amendments have been made to Form No. 6A to ensure the form reflects the restriction on terminating a tenancy under section 21 of the Housing Act 1988 made by section 17 of the Tenant Fees Act 2019. This applies where a landlord has breached section 1(1) of or Schedule 2 to that Act so long as all or part of the prohibited payment or holding deposit has not been repaid to the relevant person

Planning and environment

Community Infrastructure Levy - September 2019 will bring further changes

(TLT Legal Insight | 6 June 2019)

The Government has released its response to the technical consultation on draft regulations and the Government's view on the way forward, along with draft amendment regulations. These regulations are due to come into force on 1 September 2019. Changes include the removal of the restriction on pooling, and the replacement of regulation 123 lists with infrastructure funding statements.



Land identified for potential development cannot be a town or village green

(TLT Legal Insight | 30 May 2019)

Under the Commons Act 2006, anyone can apply to register land as a town or village green where a significant number of people living locally have used that land, as of right, for 'lawful sports and pastimes' for at least 20 years.

Concerns about the use of the village green rules to frustrate or delay development led to changes in 2013. These changes meant that the right to register land as a town or village green no longer applied if a 'trigger event' had occurred. Earlier this month, the Court of Appeal gave its judgment on the use of one of these trigger events in the case of Wiltshire Council v Cooper Estates Strategic Land Ltd.

Housing Minister announces boost for families and high streets as planning red tape is axed

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

Thousands of homeowners will be able to extend their properties quickly and easily without the need for a full planning application.

EV charging points: more flexibility for development following recent amendment

(TLT Legal Insight | 13 May 2019)

A planning restriction on the installation of EV charge points under permitted development rights has recently been amended. The height of each charging point can (from 25 May) be 2.3 metres tall rather than 1.6 metres, as long as the charging point is not located at a dwelling house or block of flats, and is not on the highway.

Procurement

Amey Highways Ltd v West Sussex CC [2019] EWHC 1291 (TCC) (24 May 2019) (Stuart-Smith J).

(BAILII | 24 May 2019)

The Judge in this case held that the decision of a local authority to abandon a procurement had no effect on an accrued cause of action which arose before the abandonment decision was taken.

Real estate

Beneficial ownership: Joint Committee report on draft Registration of Overseas Entities Bill

(Joint Committee on the Draft Registration of Overseas Entities Bill | 20 May 2019)

The Joint Committee on the Draft Registration of Overseas Entities Bill has today published its pre-legislative scrutiny report. The Committee welcomes the Bill, but calls for its concerns to be rectified to ensure that the legislation successfully deters money laundering in the UK property market.

Government response to consultation on Planning Reform: Supporting the high street and increasing the delivery of new homes

(Ministry of Housing, Communities & Local Government | 3 May 2019)

In response to its consultation on supporting the high street and increasing the delivery of new homes, the Ministry of Housing, Communities and Local Government summarises responses and outcomes. The report sets out the key issues raised in response to the 2018 consultation and the government response including new and amended permitted development rights to support the high street, enable people to build a larger extension to their home, and to remove the right to install a public call box and deemed advertisement consent.

Procurement Policy Note 03/19: The Public Procurement (Electronic Invoices etc.) Regulations 2019

(Cabinet Office | 20 May 2019)

The Cabinet Office has published a policy note which sets out the required actions by contracting authorities in light of the Public Procurement (Electronic Invoices etc.) Regulations 2019 being made.



New public buildings to have Changing Places toilets for severely disabled people

(Ministry of Housing, Communities & Local Government | 12 May 2019)

New, or majorly refurbished, large buildings used by the public must have Changing Places toilets, under government proposals being consulted on from today. Buildings covered will include shopping centres, supermarkets, sports and arts venues.

Tax

The Value Added Tax (Reduced Rate) (Energy-Saving Materials) Order 2019

(Legislation.gov.uk | 20 May 2019)

The final regulations have now been published which amend the scope of the reduced VAT rate of 5% for energy-saving materials to ensure consistency with EU law.

Welfare

Benefit cap Supreme Court ruling: R (DA and others) v Secretary of State for Work and Pensions and R (DS and others) v Secretary of State for Work and Pensions

(Supreme Court | 15 May 2019)

The Supreme Court dismissed appeals by campaigners who argued that the benefit cap discriminated against single parents with young children. The majority held that the government's decision not to exempt single parents with young children was "not manifestly without reasonable foundation" and did not breach human rights laws.

Universal Credit and claimants' rent losses

(Commons Work and Pensions Committee | 7 May 2019)

The Commons Work and Pensions Committee published correspondence between the Committee and the Secretary of State of Work and Pensions, local government and other housing bodies concerning the particular financial consequences, for UC claimants and social landlords, of the method by which DWP calculates Universal Credit payments and awards

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.



ttsolicitors.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>