



Monthly Law Update |
Social Housing
April 2019

Introduction

This update shows the main legislative and case law developments and statutory guidance issued in connection with the Social Housing sector from the last month (March 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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Charity regulator warns trustees to protect their charity from non-charitable interests...

Charities

Charity regulator warns trustees to protect their charity from non-charitable interests

(The Charity Commission | 29 March 2019)

Charities are being told to ensure the close relationships some enjoy with non-charitable organisations are made clear to people outside their charity and never used to advance non-charitable agendas and interests. Amid concerns that some relationships between charities and non-charities have damaged public confidence in charity, the Charity Commission has published new guidance.

Charity trustees' legal names to be displayed on charity register from 1 September 2019

(The Charity Commission | 28 March 2019)

The Charity Commission will now display the legal names of charity trustees on the charity register from 1 September 2019 and not 1 April 2019 as originally announced, giving charity trustees at risk a further six months to apply for a dispensation.

Five ways civil society organisations can prepare for EU exit

(The Charity Commission | 13 March 2019)

How civil society organisations can prepare for when the UK leaves the EU.



Corporate

Spring Statement 2019: Financial reporting: government announcement on payment practices

(HM Treasury | 13 March 2019)

The Chancellor has announced that the government will require audit committees to review payment practices, and report on them in the annual accounts.

Domestic landlords must pay £3,500 per property to improve energy efficiency

Energy

Domestic landlords must pay £3,500 per property to improve energy efficiency

(TLT Legal Insight | 27 March 2019)

On 1 April 2019, The Energy Efficiency (Private Rented Property)(England and Wales)(Amendment) Regulations 2019 (the 2019 Amendment Regulations) come into force.

In addition to removing the 'no cost' exemption for landlords of domestic properties, the 2019 Amendment Regulations clarify the position in relation to the consent exemption for lettings of both domestic and non-domestic properties.

Carbon emissions, energy consumption and efficiency reporting - new regime for large businesses

(TLT Legal Insight | 25 March 2019)

The CRC Energy Efficiency Scheme (CRC) is coming to an end in 2019, as we transition to the new Streamlined Energy and Carbon Reporting (SECR) regime that will apply to a much wider range of businesses. Find out who will be impacted, and what's involved.

On 1 April 2019, the new SECR framework will be introduced requiring additional carbon emissions, energy use and efficiency reporting by quoted companies, large private companies and large limited liability partnerships (LLPs).

Employment

Home Office publishes summary guidance for making modern slavery statements

(Home Office | 12 March 2019)

The Home Office has published summary guidance for making a modern slavery and human trafficking statement required by section 54 (Transparency in Supply Chains) of the Modern Slavery Act 2015.

Consultation: off-payroll working rules from April 2020

(HM Revenue & Customs | 5 March 2019)

HMRC has published a policy paper and consultation document on extending the off-payroll working rules to the private sector from 6 April 2020. The closing date for responding is 28 May 2019

Workers' rights to be protected in UK law

(Department for Business, Energy & Industrial Strategy | 6 March 2019)

The government has published a Policy Paper with draft legislation intended to be part of the Withdrawal Agreement Bill, claiming it will protect and enhance workers' rights after the UK leaves the EU. The government has made a commitment not to reduce the standards of workers' rights from EU laws retained in UK law and will ensure that new legislation changing those laws will be assessed as to whether they uphold this commitment.

Housing

Government accepts majority of Commission's event fees recommendations

(The Law Commission | 1 April 2019)

A major legislative change for any organisation involved in the supply of housing for older people

The government has confirmed that it will enact Law Commission recommendations to protect older people and their families. This will introduce protections for leaseholders in retirement properties against unexpected fees – known as event fees – being charged in unfair circumstances.

It will also impose an obligation on landlords (or others who benefit from these fees) to provide transparent, upfront information about the fee to potential purchasers of retirement properties.

The government has told the Law Commission that it will implement the majority of the recommendations made in the event fees report published in 2017.

Residents and landlords to team up to better communicate building safety issues

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

Social housing residents are to team up with their landlords to trial innovative methods of communicating building safety matters to residents as part of a new government-appointed group. The Social Sector Engagement Best Practice Group is a key measure of the government's Social Housing Green Paper and the Building a Safer Future implementation plan.

EEA nationals in the UK: access to social housing and homelessness assistance in a no-deal scenario

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

Information for local housing authorities on the rights of EEA nationals in the UK to access social housing, including supported housing, and homelessness assistance if the UK leaves the EU without a deal.

Tenant Fees Act 2019: guidance

(Ministry of Housing, Communities & Local Government | 1 April 2019)

Guidance for tenants, landlords, letting agents and local authority enforcement officers explaining how the Act affects them.

New report puts the spotlight on complaints about repairs

(Housing Ombudsman Service | 28 March 2019)

The Housing Ombudsman have launched the first in a new series of reports which shares the learning from our complaints and provides good practice points to help landlords improve their services and complaint handling.

Bill to ban lettings fees becomes law

(Welsh Government | 27 March 2019)

A new Welsh Government Bill which aims to make things simpler and fairer for tenants has been passed by the National Assembly for Wales. The Bill will make it an offence to charge a tenant, any payment that is not specified as a 'permitted payment' by the legislation. This means tenants cannot be charged for such things as an accompanied viewing, receiving an inventory, signing a contract, or renewing a tenancy.

Salix Homes v Mantato (2019) EWCA Civ 445

(BAILII | 20 March 2019)

The central issue on this appeal is whether, both in principle and on the particular facts of the present case, a landlord is precluded by cause of action estoppel from obtaining an order for possession of property by reason of the tenant's non-payment of rent when there is an existing undischarged order for payment of earlier arrears and for possession for non-payment of those arrears. A court of appeal decision on a first instance application, where the main issue was whether, given an historic possession order, the landlord could bring fresh possession proceedings.



Housing (continued)

Fitness for Human Habitation - what does it mean?

(TLT Legal Insight | 20 March 2019)

On the 20 March 2019 the Homes (Fitness for Human Habitation) Act 2018 (the 'Act') came into effect. This changes the way in which many disrepair claims are dealt with and increases the obligations of both private and social housing landlords.

Flawed system leaves leaseholders at risk of exploitation by developers, freeholders and managing agents – urgent reform needed

(Housing, Communities and Local Government Committee | 19 March 2019)

The Housing, Communities and Local Government Committee has called for wide ranging reforms to the leasehold system in a report published today. The Committee finds that the balance of power in existing leases, legislation and public policy is too heavily weighted against leaseholders.

New rules to better protect renters' money

(Ministry of Housing, Communities & Local Government | 7 March 2019)

All private rented property agents will have to sign up to a scheme protecting both renters' and landlords' money under new laws. Under the new regulations taking effect from 1 April, all property agents in the private rented sector will be required to join a government-approved scheme to protect their clients' money while it is in their possession – with fines of up to £30,000 if they fail to do so.

Right to rent: ministerial response to judicial review judgment

(Parliament.uk | 5 March 2019)

Baroness Williams of Trafford, a Minister of State at the Home Office, has given a written statement to the House of Lords in response to the judgment in **Joint Council for the Welfare of Immigrants, R (On the Application Of) v Secretary of State for the Home Department [2019] EWHC 452 (Admin)**. In that case the High Court held that the UK Government's Right to Rent policy is incompatible with human rights and in breach of the Equality Act 2010.

Homes (Fitness for Human Habitation) Act 2018

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

Guidance to help tenants, landlords and local authorities understand the Homes (Fitness for Human Habitation) Act 2018. For tenants, this non-statutory guidance will help them to make use of their rights under the Act. For landlords and local authorities, this non-statutory guidance will ensure that they are aware of what the Act means for them.

Affordable Homes Guarantee Scheme – spring Statement 2019

(HM Treasury | 13 March 2019)

Guaranteeing up to £3 billion of borrowing by housing associations in England to support delivery of around 30,000 affordable homes through the Affordable Homes Guarantee Scheme.

Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 made

(Legislation.gov.uk | 4 March 2019)

The Regulations will apply in England only and will come into force on 1 April 2019. Immediately upon coming into force, the Regulations will be subject to minor amendments by section 23 of the Tenant Fees Act 2019.

Golding v Martin [2019] EWCA Civ 446

(BAILII | 15 March 2019)

The background to this appeal is a cautionary tale about the danger to a lessee in leaving a flat unoccupied and moving abroad without giving the landlord a forwarding address for correspondence.

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Human rights

Watchdog confirms Grenfell breached human rights laws

(Equality and Human Rights Commission | 13 March 2019)

Local authorities and public services failed their human rights obligations to protect life and provide safe housing, we have confirmed in a report, Following Grenfell, submitted to the Grenfell Tower Inquiry.



Planning and environment

Response to consultation on Planning Reform - Spring Statement

(HM Government | 13 March 2019)

The Spring Statement included a commitment to reform planning law so as to make it easier to allow a change of use within premises and to extend the permitted development rights to allow upward extension of existing buildings to create new homes. The Ministerial Statement can be found [here](#).

Affordable housing - developer's calculations rejected

(TLT Legal Insight | 21 March 2019)

Earlier this month, the Planning Inspectorate rejected a developer's method of calculating the sum to be paid for the provision of off-site affordable housing.

What is the key to speeding up planning appeal inquiries?

(TLT Legal Insight | 11 March 2019)

Last month, the government published the report of the Independent Review of Planning Appeal Inquiries. This sets out 22 recommendations for change. These range from simple improvements in timetabling to an increased use of technology.

Procurement

Cabinet Office publishes PPN 02/19 on preparing for Brexit

(Cabinet Office | 12 March 2019)

The Cabinet Office has published Procurement Policy Note-Preparing for the UK Leaving the EU, which provides information on how the UK's public procurement regulations will be affected in the event of either an agreed deal with the EU or a no deal exit from the EU.

Consultation: social value in government procurement

(Cabinet Office | 11 March 2019)

The Cabinet Office has published a consultation on social value in government procurements, seeking views on proposals which would require central government departments to take account of social impact as part of their award criteria.

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Real estate

Business rates avoidance schemes valid says Court of Appeal

(TLT Legal Insight | 13 March 2019)

Schemes put in place with the intention of avoiding non-domestic rates liabilities on empty properties have been upheld in an important test case in the Court of Appeal (*Rossendale Borough Council v Hurstwood Properties (A) Ltd* (2019)).

Tax

Value Added Tax (Amendment) Regulations 2019 (draft)

(HM Revenue & Customs (HMRC) | 19 March 2019)

HMRC have published the draft Value Added Tax (Amendment) Regulations 2019 for consultation to tighten the rules on VAT adjustments following an increase or decrease in the consideration for a supply. Comments are invited by 15 April 2019.

Draft legislation detailing a new capital allowance for new non-residential structures and buildings

(HMRC | 13 March 2019)

HMRC have published draft legislation setting out the capital allowances for structures and buildings (SBAs) rules announced in the 2018 Budget. A response to the consultation will be published in May 2019 and final legislation is expected to be in place before the House of Commons summer recess (20 July 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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