

## **Legal Bulletin - Registered Social Landlords as Public Authorities Weaver v London & Quadrant Housing Trust**

### **Background**

This case was brought by Mrs Susan Weaver who was an assured tenant of L&QHT. The Trust sought possession under Ground 8, Schedule 2 of the Housing Act 1988 (at least 8 weeks' rent arrears). Mrs Weaver contested the claim on the grounds that the Trust failed to pursue all reasonable alternatives before using a mandatory ground for possession. It was also contested that the decision breached Mrs Weaver's rights under Human Rights law. Mrs Weaver's barrister put it to the court that L&QHT is for relevant purposes a public authority and therefore amenable to Judicial Review.

### **Summary**

This matter was heard in the Administrative Court and on the 24<sup>th</sup> June 2008, it was held that in the particular circumstances of the case London & Quadrant Housing Trust were a Public Authority and subject to Judicial Review. Permission has been given to London & Quadrant to appeal to the Court of Appeal against this decision, but it is likely to inform the views of both Claimants' and Defendants' Solicitors unless and until an Appeal takes place.

Although the Claim for Judicial Review of the Trust's decision was dismissed on the merits, the decision has implications for all Registered Social Landlords.

Factors that the Court took into account when deciding that London & Quadrant was a Public Authority were as follows:

- 1) As a Registered Social Landlord the Trust was affected by state direction and influence in relation to meeting the governments aims for affordable housing.

- 2) The nature and extent of public subsidy of the Trusts activities (44% of development costs over the next 2 years to be financed by grants).
- 3) The 10% of the Trust stock which had been acquired by voluntary transfer from Local Authorities was a significant proportion reflecting the fact that the Trust was performing similar functions to Local Authorities.
- 4) The duty of the Trust, if requested, under Section 170 of the Housing Act 1996 to co-operate with Local Authorities providing accommodation and further exemplified the nature of the relationship as not a purely contractual one.
- 5) Decisions concerning the termination of the Tenancy form part of the Housing Management Function this is a public rather than private function and is amenable to Judicial Review.

It was, of course, only a matter of time before this issue came up for a decision and with RSLs becoming increasingly instruments of Government Policy the writing was on the wall for the demise of the private organisation argument. The position of stock transfer Landlords was always less arguable than that of traditional RSLs and pending any review of the London & Quadrant decision an argument that a Stock Transfer Landlord is not a functional Public Authority is probably doomed to failure.

For those who read our recent bulletin in relation to the McCann case (if a copy is needed please let me know) the arguments that were deployed against Birmingham City Council in that case would now appear to be equally relevant to a Registered Social Landlord (or in the parlance of the Housing and Regeneration Bill a 'Provider of Social Housing').

Any feedback on this bulletin (which is based upon materials kindly supplied by Arden Chambers) is most welcome.

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Director

