

Weaver v London & Quadrant - Appeal denied by Supreme Court

Three Justices of the Supreme Court have refused London & Quadrant Housing Trust permission to appeal against the Court of Appeal Judgment published on 18th June 2009 upholding the decision of the Administrative Court dated 24th June 2008.

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.

Unanswered questions...

This decision meant that London & Quadrant Housing Trust was a *hybrid* Public Authority, however the decision leaves a significant and unanswered question....

"What part of a Registered Provider's operations other than the termination of a tenancy would be considered to be acts of a public nature?"

This is important because it will dictate which areas are open to challenge pursuant to the Human Rights Act or by way of Judicial Review.

Future decisions

The Court of Appeal emphasised that a decision as to whether a Registered Provider was a hybrid Public Body would be determined on the specific facts of each case. In making its findings in the Weaver v LQHT case, the Court took into account a number of key factors including:

1. The significant reliance on public funding.
2. The close working relationship with Local Authorities in the allocation of its stock.
3. The provision of subsidised housing was probably regarded as a Governmental activity.
4. The Trust was acting in the public interest.
5. The Trust was regulated by a Government agency in such a way as to promote Governmental Policy objectives.
6. The Trust conceded that it had some functions of a public nature, e.g. in relation to anti-social behaviour.

Impact

The Supreme Court decision will have wide implications for Registered Providers and undoubtedly will lead to challenges based on the Human Rights Act or conventional Judicial Review grounds.

Furthermore, it remains to be seen which functions and acts the courts will decide are 'of a public nature' and this will need a great deal of consideration by Registered Providers and their Lawyers.

Queries?

Please contact Paul Lloyd or Lindsay Felstead if you have any queries, comments or concerns about this case and the impact it may have on your organisation.

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