



YOUR MONTHLY E-BULLETIN

Issue 74; November 2019

LATEST CONSORTIUM NEWS

Annual Training Event 2019 Follow-Up

Nominated Charity – The North West Air Ambulance

At the Annual Training Event we held our usual raffle in aid of NWAA.

And we raised over £340... well done to everyone who contributed and to our generous Partner Firms and exhibitors for some great prizes.

The Consortium AGM was also held as usual as part of the Annual Training day.

The good news is that it was decided to hold member subscriptions at the same level again - this is hopefully really welcome news for your stretched budgets!

Your Management Board appointments for 2019/2020 are as follows:

David McCullough, Sefton

Jill Coule, Liverpool City Region Combined Authority

Anne Wright, Warrington

Lisa Tremble, Eden

Aaron Byrne, Warrington

Anne Greenwood, Cheshire West and Chester

David Wilcock, Rochdale

Two current vacancies will be filled shortly, including a trainee Board member appointment.

Solicitors Framework Re-Procurement – We are getting there!

The new Procurement Exercise is almost ready to go....

More news on progress and timetable in future editions.

Watch out for your New Newsletter – ‘The Consortium Quarterly’

A new newsletter for NWLC Member organisations is being launched this Autumn.

Content will include articles of topical interest from our Partner firms as well as NWLC reminders and a bit of personal insight.

FREE Consortium Training Programme 2019/20

As in previous years, you can book yourselves, colleagues or clients on to our FREE courses through the website at www.nwlegalconsortium.com



And don't forget that all the training is **FREE to delegates from member organisations**

All course start times are 10am to avoid confusion and to assist all delegates in making their travel arrangements.

And also Calling all Child Care lawyers – In response to demand, as part of the programme this year we have included a session entitled Children Social Care. Its on 29th January 2020 and hosted by Weightmans in Liverpool.

Reminders

Course Materials

Presentations and handouts from Consortium training sessions or the sessions at the Annual Training Event are all available in the documents area of the website at www.nwlegalconsortium.com

Website Authorised Users - Are all your colleagues signed up to use the Consortium website?

There is no limit on the number of users that each member organisation can register.

Some organisations have registered all their legal staff, others have been selective.

If you want to add new users we will need the approval of the Head of Service but from there we will sort it out for you!

Please either complete the form on the home page of the website or contact Beryl Heath on bh_nwlconsortium@btinternet.com to add more authorised users for your organisation

Also, if you have staff leaving you please let us know and we will keep your user list up to date.

New Roles up for grabs – there are lots of current adverts!

We publish a range of vacancies on the website jobs page at <http://www.nwlegalconsortium.com/jobs/>

We are always adding new roles so keep checking.

If your organisation wants to advertise any vacancies on the website for free contact Beryl Heath on bh_nwlconsortium@btinternet.com

NWLC NOMINATED CHARITY OF THE YEAR



Please support the North West Air Ambulance Charity

For the Charity's latest events go to: nwaa.net



NWLC MONTHLY LEGAL UPDATER

POWERED BY THOMSON REUTERS AND PRACTICAL LAW

01/11/19

This is a selection of legal updates for NWLC powered by Westlaw UK and Practical Law. To read more on these topics, go to westlaw.co.uk or uk.practicallaw.com

CASES

FAMILY LAW. *Human rights; Mental health; Local government.*

Children; Deprivation of liberty; Gillick competence; Parental consent; Parental responsibility; Persons lacking capacity; Residential accommodation; Right to liberty and security; Secure accommodation orders.

D (A Child), Re. [2019] UKSC 42. Supreme Court (SC). Lady Hale PSC; Lord Carnwath JSC; Lady Black JSC; Lord Lloyd-Jones JSC; Lady Arden JSC. September 26, 2019

It was not within the scope of the operation of parental responsibility for parents to consent to living arrangements for a 16 or 17-year-old child who lacked capacity if those arrangements would otherwise amount to a deprivation of liberty within the meaning of ECHR art.5.

Appeal allowed

MENTAL HEALTH. *Local government.*

Autistic spectrum disorder; Capacity; Consent; Information; Protected persons; Sex life.

A Local Authority v JB (Capacity: Consent to Sexual Relations and Contact with Ors). [2019] EW COP 39. Court of Protection (CP). Roberts J. September 17, 2019

In relation to a person's capacity to consent to sexual relations, the "information relevant to the decision" under the Mental Capacity Act 2005 s.3(1) did not include information that, absent consent of a sexual partner, attempting sexual relations with another person was liable to breach the criminal law.

Judgment accordingly

PUBLIC PROCUREMENT. *Media and entertainment.*

Advertising; Concession agreements; Damages; Leases; Loss of chance; Public procurement procedures.

Ocean Outdoor UK Ltd v Hammersmith and Fulham LBC. [2019] EWCA Civ 1642. Court of Appeal (Civil Division) (CA (Civ Div)). Longmore LJ; Coulson LJ; Snowden J. October 08, 2019

The grant of leases for the operation of media advertising screens on two plots of land did not amount to the letting of services concession contracts for the purposes of the Concession Contracts Regulations 2016. Services provided under services concession contracts had to be services to or for the public, which the contracting authority would otherwise have to provide itself. In order to come within the definition in reg.3(3), there was also a requirement for a legally enforceable commitment by the contractor to perform the relevant work.

Appeal dismissed



SOCIAL SECURITY. *Human rights; Administrative law.*

Comparators; Discrimination; Equal treatment; Irrationality; Justification; Peaceful enjoyment of possessions; Public sector equality duty; Right to respect for private and family life; Self-employment; Social security benefits; Universal credit.

R. (on the application of Parkin) v Secretary of State for Work and Pensions. [2019] EWHC 2356 (Admin). Queen's Bench Division (Administrative Court) (QBD (Admin)). Elisabeth Laing J. September 19, 2019

The mechanism in the Universal Credit Regulations 2013 reg.62 to calculate the amount of Universal Credit for a person in gainful self-employment did not constitute unlawful discrimination on the ground of self-employment contrary to ECHR art.14. While employed and self-employed claimants were treated differently in the way in which Universal Credit was calculated, the two groups were not in analogous situations: there were legal and practical differences between employment and self-employment which accounted for the different mechanisms necessary to achieve the scheme's aims. Further, the mechanism applied to self-employed claimants was not irrational at common law, and the secretary of state had complied with the public sector equality duty in the Equality Act 2010 s.149 in designing the scheme.

Application refused

LEGISLATION

FAMILY LAW. *Criminal law; Penology and criminology.*

Cross-examination; Domestic violence and abuse; Family proceedings; Jurisdiction; Offensive behaviour; Sexual offences; Violent offences.

Domestic Abuse Bill 2019 (HC Bill 422).

A Bill to make provision in relation to domestic abuse; to make provision for and in connection with the establishment of a Domestic Abuse Commissioner; to prohibit cross-examination in person in family proceedings in certain circumstances; to make provision about certain violent or sexual offences, and offences involving other abusive behaviour, committed outside the United Kingdom; and for connected purposes.

Website: <https://services.parliament.uk/Bills/2017-19/domesticabuse/documents.html>
[Accessed at 17 July 2019]

Hansard: HC Bil Vol 663 col 725 (1st Reading), Vol 664 col 1238 (2nd Reading)

Commons 1st Reading: 16/7/2019 | HC Vol 663 col 725; 2nd Reading: 2/10/2019 | HC Vol 664 col 1238

ROAD TRAFFIC. *Criminal law.*

Enforcement; Speeding; Traffic management.

Traffic Management (Amendment) Bill 2019 (HL Bill 10).

A Bill to make provision in relation to the civil enforcement of speeding contraventions.

Website: <https://services.parliament.uk/Bills/2019-20/trafficmanagementamendment/documents.html>
[Accessed at 18 October 2019]

Hansard: HL Vol 800 col 167 (1st Reading)

Lords 1st Reading: 17/10/2019 | HL Vol 800 col 167; 2nd Reading: Date to be announced



GOVERNMENT AND REGULATORY DEVELOPMENTS

HEALTH. *Social welfare.*

Healthcare Inspectorate Wales; Social Care Wales; Social workers; Vocational training.

The first three years in practice: A framework for newly-qualified social workers' induction and continuing professional development. By Care Inspectorate Wales; Social Care Wales. 18 October 2019

Joint guidance from Social Care Wales and Care Inspectorate Wales to help with social workers' development after qualifying, providing a framework to support newly-qualified social workers. To support employers and social workers to further develop the knowledge, skills and attributes gained through qualifying training, the guidance consists of the four following sections: induction, growing in competence and confidence, consolidation programme, and renewing registration.

Website: <https://careinspectorate.wales/191018-social-care-wales-publish-joint-guidance-care-inspectorate-wales-ciw-help-social-workers> [Accessed at 18 October 2019]; <https://socialcare.wales/resources/the-first-three-years-in-practice> [Accessed 18 October 2019]; https://socialcare.wales/cms_assets/file-uploads/First-three-years-in-practice-ENG.pdf [Accessed 18 October 2019]

HOUSING.

Affordable housing; Housing associations; Right to buy; Shared ownership; Social housing.

Thousands more people to be given step up onto the housing ladder. By Ministry of Housing, Communities and Local Government. 17 October 2019

A package of measures to help people on lower incomes get onto the housing ladder have been confirmed by the Housing Secretary Robert Jenrick. As announced over summer 2019, the Government is reviewing a new national model for shared ownership to make it easier for people to buy more of their own home, including allowing them to buy in 1% increments. For tenants in new housing association properties, there will be an automatic right to buy a share of their home from as little as 10%, with the ability to increase that share over time, up to full ownership.

Website: <https://www.gov.uk/government/news/thousands-more-people-to-be-given-step-up-onto-the-housing-ladder> [Accessed at 17 October 2019]; <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-10-17/HCWS21/> [Accessed 18 October 2019]

LOCAL GOVERNMENT. *Legislation.*

Bills; Local authorities' powers and duties; Local government finance; Non-domestic rates; Public services; Queen's speech.

LGA sets out Queen's Speech seven-point plan to boost public services. By Local Government Association. 20 September 2019

The Local Government Association (LGA) has called on the Government to use the Queen's Speech, currently planned for 14 October 2019, to introduce the following: the English Devolution Bill, giving councils greater powers and funding to build more homes; the Local Government Bill, to pave the way for local government to keep 100 per cent of business rates and boost local services, and set business rate discounts; and the Building Safety Bill, to implement the Hackitt Review recommendations and enshrine a tough new building safety system into law.

Website: <https://www.local.gov.uk/about/news/lga-sets-out-queens-speech-seven-point-plan-boost-public-services> [Accessed at 20 September 2019]



NEWS ARTICLES

LOCAL GOVERNMENT. Information technology.

Artificial intelligence; Automated decisions; Data protection; Data security; Local authorities' powers and duties; Privacy.

One in three councils using algorithms to make welfare decisions. *Guardian, 16 October 2019, 20-21.*
By Sarah Marsh.

One in three UK councils are using computer algorithms from companies including the US credit rating businesses Experian and TransUnion, and the outsourcing specialist Capita and Palantir, to help make decisions about benefit claims, prevent child abuse and allocate school places, despite evidence emerging that some of the systems are unreliable and concerns being raised about privacy and data security, the ability of council officials to understand how some of the systems work and the difficulty for citizens in challenging automated decisions.

Organisations Referred: Capita; Experian; Palantir; TransUnion

LOCAL GOVERNMENT. Education.

Complaints; Local Government Ombudsman; Local authorities' powers and duties; Special educational needs.

Local Government Ombudsman finds that councils are rationing funds for special needs children. *Times, 4 October 2019, 19.* By Nicola Woolcock. Also Reported in *Guardian, 4 October 2019, 17*

The Local Government Ombudsman Michael King has stated that some local authorities are putting barriers in the way of parents of children with special needs to ration resources leading to delays of 18 months causing a significant impact on their education. He has reported that his office upheld appeals in an unprecedented 87% of special needs cases in 2018, compared with 57% of all cases it considered.