



YOUR MONTHLY E-BULLETIN

Issue 96; November 2021

LATEST CONSORTIUM NEWS

All Change.....

This E-Bulletin is the penultimate edition of your monthly newsletter.

From next year we will be keeping in touch through the website of course and our quarterly news magazine, Consortium Quarterly.

We have had really good feedback about the quality of the articles in the CQ and its look and feel which we think brings a more up to date approach to publishing our news and features.

Look out for the next edition of your magazine in early December.

Consortium Offers from Lexis Nexis and Thomson Reuters – Don't Miss Out!

Lexis Nexis and **Thomson Reuters** are both offering favourable rates on their publications and research tools to Consortium member organisations.

Details of what is on offer have gone out to Heads of Service but if you haven't yet seen the detail contact the suppliers directly or Beryl at bh_nwlconsortium@btinternet.com

For LEXIS NEXIS

For any further information on the offer available to NWLC members please contact Lewis Williams lewis.williams@lexisnexis.co.uk

Get your complimentary access to LexisNexis

For THOMSON REUTERS

To find out more about TR services, to arrange a demonstration or trial access or to discuss the various renewal options available, please contact your Thomson Reuters Key Account Manager, Rachel Price at rachel.price@tr.com or on 020 7513 8173

NWLC Annual Training Programme 2021- 22

Our final free webinar for 2021 is

Adult Social Care – to be presented live on 24th November, 11 – 12 noon

Morris Hill and Victoria Cassidy from Weightmans will be presenting this webinar which will consider the proposed reforms to the Mental Health Act and developments in capacity to consent to sexual relations.



As 2021 moves to a close we are publishing the next tranche of our 2021/22 Free Annual Training Programme.

Details will be added to the website, courses area and will also be published in CQ6.

Back Copies - Access Webinar Recordings

Each live NWLC webinar from last year's programme has been recorded, so we have quite a library of recordings on the website now. The recorded sessions are available to view **free of charge** – by accessing the recording link found in the secure area of the website.

[Find your recording by following these easy steps](#) – You need to log in to the website to access the secure area, click on the Publications tab – and then on Podcasts/Webinars.

REMINDERS

NWLC Precedent Service – Have you taken a look?

To find the precedents just log into the website secure area and use the drop down list under the Publications tab to select 'Precedent Service' to access the documents.

All the precedents have been provided by our Partner firms. They cover a variety of subjects and are tailored for the use of member organisations and their work areas.

All of the published precedents are available to download **for free** to staff from member organisations.

We are also running a **precedent service on demand** so if you require a precedent which you cannot find you can email simon.goacher@weightmans.com and he will try and obtain it for you.

We would also welcome any precedents created by member organisations which you think would be of use to colleagues.

Please email any such examples to Simon Goacher or Beryl Heath at bh_nwlconsortium@btinternet.com

Your Consortium is now on LinkedIn

Find us [here](#)

We are looking to develop our profile in the future to make sure that we provide the information you want and need on this new additional platform.

If there is anything you'd like to us to add to the profile please let us know.



Looking for a new role?

See Vacancies at other Member Organisations

We publish a range of vacancies on the website jobs page at nwlegalconsortium.com/jobs

Currently there are roles available at a number of member organisations all across our region.

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



With the festive season approaching the North West Air Ambulance are keen to publicise this year's BTR Santa Dash.

As one of eight charity partners NWAA are hoping to have a team of Santas representing North West Air Ambulance at this year's event.

Are you going to give it a go this year?

Read more below

<https://www.nwairambulance.org.uk/events/liverpool-santa-dash/>



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

01/10/21

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](https://www.westlaw.co.uk) or [uk.practicallaw.com](https://www.uk.practicallaw.com)

CASES

CIVIL PROCEDURE. *Administrative law; Civil evidence; Public procurement.*

Admissibility; Contract award procedures; Coronavirus; Disclosure; Expert evidence; Judicial review; Procedural impropriety; Public contracts; Public interest; State aid.

R. (on the application of Good Law Project Ltd) v Secretary of State for Health and Social Care. [2021] EWHC 2595 (TCC). Queen's Bench Division (Technology & Construction Court) (QBD (TCC)). Fraser J. September 30, 2021

In a judicial review claim challenging government awards of contracts for the production of COVID-19 tests to a private company, the Secretary of State for Health and Social Care would not be permitted a third attempt to adduce a rule-compliant expert report to meet the allegation that the awards amounted to unlawful state aid. The court had rejected an earlier version of the report that referred simply to "discussions" without identifying those discussions or other information on which its conclusions were based, and the production of a second report containing the same conclusions but with the references to discussions deleted amounted to a serious breach of CPR r.35.1.

Judgment accordingly

EDUCATION. *Local government.*

Children; Children's welfare; Local authorities' powers and duties; Public interest; School exclusions; Schools; Ultra vires

R. (on the application of CHF) v Newick CE Primary School. [2021] EWHC 2513 (Admin). Queen's Bench Division (Administrative Court) (QBD (Admin)). Fordham J. September 17, 2021

A school and a local authority had the power to impose a safeguarding separation involving mandatory off-site schooling, as collaborative and coordinated action, to ensure that the educational functions of the local authority and the functions relating to the conduct of the school were exercised with a view to safeguarding and promoting the welfare of children who were pupils at the school, pursuant to the Education Act 2002 s.175. That involved the local authority exercising its power under the Education Act 1996 s.19, the school exercising its general management powers, and each of them discharging their public law duties.

No order made on judicial review claim

MENTAL HEALTH. *Health.*

EU law; Insolvency; Public contracts; Public procurement procedures.

PW (Jehovah's Witness: Validity of Advance Decision), Re. [2021] EWCOP 52. Court of Protection (CP). Poole J. September 22, 2021

The court concluded that an 80-year-old woman with dementia lacked capacity to refuse or consent to a blood transfusion and that it was in her best interests to undergo treatment. The patient was a Jehovah's witness and had executed an advance decision in 2001 refusing consent to blood transfusion. However, the court found that she had subsequently "done" things that were "clearly" inconsistent with the advance decision remaining her "fixed" decision such that it was invalid under the Mental Capacity Act 2005 Pt 1 s.25(2)(c).

Declarations granted



LEGISLATION

TAX. Health; Social welfare.

Direct taxes; Health care; National insurance contributions; Social care.

Health and Social Care Levy Bill 2021-22 (HC Bill 160).

A Bill to make provision imposing a tax (to be known as the health and social care levy), the proceeds of which are payable to the Secretary of State towards the cost of health care and social care, on amounts in respect of which national insurance contributions are, or would be if no restriction by reference to pensionable age were applicable, payable; and for connected purposes.

Website: uk.westlaw.com/Document/I898E6C1012AC11EC8C2AA2B6073087C1/View/FullText.html
[Accessed at 15 September 2021]

Hansard: HC Vol 700 col 323 (1st Reading), Vol 700 col 840 (2nd Reading, Committee Stage, 3rd Reading); HL Vol 814 col 1392 (1st Reading)
Commons 1st Reading: 8/9/2021 | HC Vol 700 col 323; 2nd Reading: 14/9/2021 | HC Vol 700 col 840; Committee Stage: 14/9/2021 | HC Vol 700 col 840; 3rd Reading: 14/9/2021 Bill passed | HC Vol 700 col 840; Lords 1st Reading: 15/9/2021 (HL Bill 52) | HL Vol 814 col 1392; 2nd Reading: 11/10/2021 provisional
Legislation referred: Social Security Contributions and Benefits Act 1992; Social Security Contributions and Benefits (Northern Ireland) Act 1992; Social Security Administration Act 1992; Social Security Administration (Northern Ireland) Act 1992

HOUSING. Immigration.

Afghanistan; Asylum seekers; Entitlement; Homelessness; Hong Kong; Housing allocation; Housing assistance; Wales.

Allocation of Housing and Homelessness (Eligibility) (Wales) (Amendment) (No. 2) Regulations 2021. SI 2021/1147 (W.282)

These Regulations amend the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014, which make provision for which persons subject to immigration control are eligible for an allocation of housing accommodation and for housing assistance.

Website: https://www.legislation.gov.uk/wsi/2021/1147/pdfs/wsi_20211147_mi.pdf [Accessed at 14 October 2021]

In Force: 15 October 2021

LANDLORD AND TENANT.

Coronavirus; Extensions of time; Protection from eviction; Residential tenancies; Wales.

Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (No. 3) (Wales) Regulations 2021. SI 2021/1064 (W. 251)

These Regulations amend the Coronavirus Act 2020 Sch.29 so that it has effect until 31 December 2021.

In Force: 30 September 2021



GOVERNMENT AND REGULATORY DEVELOPMENTS

HEALTH. *Social welfare.*

Risk management; Social housing.

Sector risk profile 2021. By Regulator of Social Housing. 19 October 2021

The Regulator of Social Housing (RSH) Sector risk profile 2021 identifies key risks facing the social housing sector in 2021 and beyond, and notes some of the actions registered providers should be taking to manage those risks. Against the backdrop of the coronavirus (COVID-19) pandemic recovery, these are the risks which the RSH considers Boards of registered providers need to manage in meeting the regulator's standards. Some areas of risk are also relevant to Councillors governing local authority providers.

Website: <https://www.gov.uk/government/publications/sector-risk-profile-2021> [Accessed at 19 October 2021]; <https://www.gov.uk/government/news/rsh-identifies-key-risks-facing-social-housing-sector-in-2021-and-beyond> [Accessed 19 October 2021]

PUBLIC PROCUREMENT. *Environment.*

Decarbonisation; Government contracts; Greenhouse gas emissions; Public procurement.

Companies bidding for major government contracts face green rules. By Cabinet Office. 30 September 2021

Measures which require businesses bidding for government contracts worth more than £5 million a year to commit to achieving net zero emissions by 2050 came into force on 30 September 2021. The UK is the first country in the world to put such a measure in place, underlining the Government's leadership in the fight to tackle climate change and coming ahead of international climate conference COP26.

Website: <https://www.gov.uk/government/news/companies-bidding-for-major-government-contracts-face-green-rules> [Accessed at 1 October 2021]

SOCIAL WELFARE. *Human rights.*

Adult social care; Care homes; Human rights; Inquiries; Mental health.

New inquiry: Protecting Human Rights in Care Settings. By UK Parliament. 21 September 2021

A Joint Committee on Human Rights inquiry into whether the human rights of residents and their families are respected in care homes will examine how the human rights of those accessing social care are currently undermined or put at risk, what can be done to enhance legal protections, how well care providers ensure the human rights of the people under their care and how regulators ensure high standards in the sector. It will cover the broad range of social care services including support for older people and people with long-term medical or mental health disabilities. Comments by 1 November 2021.

Website: <https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/157644/new-inquiry-protecting-human-rights-in-care-settings> [Accessed at 21 September 2021]; <https://committees.parliament.uk/work/1495/protecting-human-rights-in-care-settings> [Accessed 21 September 2021]

CRIMINAL LAW. *Local government.*

Domestic violence and abuse; Housing; Local authorities' powers and duties; Local authority accommodation.

Domestic abuse support within safe accommodation: statutory guidance and regulations consultation - outcome. Issued by Ministry of Housing, Communities and Local Government; Department for Levelling Up, Housing and Communities. 1 October 2021



Following the Ministry of Housing, Communities and Local Government consultation on draft statutory guidance and two sets of regulations that accompany the Domestic Abuse Act 2021 Pt 4, relating to the provision of support for victims and their children residing within relevant safe accommodation, the Government has issued statutory guidance and introduced regulations which are relevant to both tier one and tier two local authorities. Alongside the response, the Government has published the final statutory guidance underpinning the new duties on local authorities.

Website: <https://www.gov.uk/government/consultations/domestic-abuse-support-within-safe-accommodation-statutory-guidance-and-regulations-consultation> [Accessed at 1 October 2021]; <https://www.gov.uk/government/consultations/domestic-abuse-support-within-safe-accommodation-statutory-guidance-and-regulations-consultation/outcome/domestic-abuse-support-in-safe-accommodation-statutory-guidance-and-regulations-consultation-response> [Accessed 1 October 2021]; <https://www.gov.uk/government/publications/domestic-abuse-support-within-safe-accommodation> [Accessed 1 October 2021]; <https://www.gov.uk/government/publications/domestic-abuse-support-within-safe-accommodation/delivery-of-support-to-victims-of-domestic-abuse-in-domestic-abuse-safe-accommodation-services> [Accessed 1 October 2021]; <https://www.gov.uk/government/news/new-duties-for-councils-to-provide-support-in-safe-accommodation-for-domestic-abuse-victims> [Accessed 1 October 2021]

Legislation referred: Domestic Abuse Act 2021 Pt 4; Domestic Abuse Support (Local Authority Strategies and Annual Reports) Regulations 2021 (SI 2021/990); Domestic Abuse Support (Relevant Accommodation and Housing Benefit and Universal Credit Sanctuary Schemes) (Amendment) Regulations 2021 (SI 2021/991)

NEWS RELEASES

HEALTH. *Social welfare.*

Care homes; Coronavirus; Death; Duty of care; Health policy.

Landmark case accuses Government of breach its duty to care home residents. Sunday Times, 17 October 2021, 17. By Sian Griffiths; Emily Dugan.

Fay Harris and Dr Cathy Gardner, the daughters of two men who died following coronavirus (COVID-19) outbreaks in their care homes, will begin a test case in the High Court on 19 October 2021 against the Government. They argue that officials failure to protect care residents during the pandemic was unlawful, with key policies and decisions contributing to the 20,000 death toll in care homes and that the Government breached its duty to protect residents.

CIVIL PROCEDURE. *Health; Public procurement.*

Coronavirus; Electronic communications; Illegal contracts; Public contracts; Testing.

Health Secretary to have personal WhatsApp and emails searched. Independent, 22 September 2021 (Online edition). By Joanna Taylor.

A High Court judge has ordered that former Secretary of State for Health and Social Care Matt Hancock's government and non-government communications used for Department of Health and Social Care (DHSC) business be searched for relevant material after The Good Law Project claimed that more than £80 million in contracts for antibody tests were awarded unlawfully. Philip Moser QC, for DHSC which is contesting the claim, said that Mr Hancock's involvement in the matters in issue was "limited" and, in any event, "any communications from the then Secretary of State would have been caught by the existing disclosure exercise".

Website: <https://www.independent.co.uk/news/uk/politics/matt-hancock-covid-contracts-emails-whatsapp-b1924417.html> [Accessed at 23 September 2021]; <https://www.theguardian.com/world/2021/sep/23/emails-emerge-of-vip-route-for-uk-covid-test-contracts> [Accessed 23 September 2021]; <https://www.standard.co.uk/news/uk/matt-hancock-government-department-of-health-and-social-care-high-court-fraser-b956484.html> [Accessed 23 September 2021]