



# YOUR MONTHLY E-BULLETIN

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**Issue Number 62 September**

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## **LATEST CONSORTIUM NEWS**

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### **ITS COMING VERY SOON NOW - 2018 ANNUAL TRAINING EVENT – 2 OCTOBER 2018**

Your 2018 Annual Training Event will take place on **Tuesday 2nd October** at the Saints Rugby Stadium in St Helens.

We are delighted this year to be welcoming back Andy Whittaker from Art of Brilliance.

<http://www.artofbrilliance.co.uk/meet-the-team/andy-whittaker>

In addition we welcome Brigadier J A J Thomson OBE QVRM TD MSc who will be giving us the benefit of his vast experience both in the armed forces and in civilian life in getting the best out of people for both themselves and the organisation.

And Elizabeth Rimmer, CEO of Lawcare will be with us asking ‘Why Mental Health Matters for Lawyers?’

In the afternoon we will move to more training from our partner firms but the afternoon will start with a plenary session from Jonathan Auburn of 11KBW dealing with Judicial Review matters.

Over 50 of your colleagues have already reserved their place for the day – will you be joining them?

You can reserve your place right now by going to the website at [www.nwlegalconsortium.com](http://www.nwlegalconsortium.com)

### **LAUNCH OF CONSORTIUM AUTUMN SURVEY IN ASSOCIATION WITH THOMSON REUTERS**

We will shortly be releasing a survey with a little help from Thomson Reuters to gauge the levels of externalised legal work across our member organisations and how you respond to your clients requirements for such support.

We are also trying to tease out the likely needs for external support in the future which will inform the Consortium’s future procurement decisions.

If you can assist us by responding to this anonymous survey we would really appreciate this. It should only take you around 5 minutes and its all to be done on line.

We hope to let you have the results in a later e-Bulletin or at the Annual Training Event.

Thank you in advance.



## **YOUR NEW AND FREE CONSORTIUM TRAINING PROGRAMME IS UNDER CONSTRUCTION!**

Thank you so much to all of you who responded to the Annual Training Survey this year.

We had a very good set of responses and this now gives our partner law firms something really solid and helpful to work with in coming up with the new programme which will start in the Autumn.

All the detail as it emerges will be published to the website courses page.

You can book yourselves colleagues or clients on to the courses available through the website.

Don't forget that all this training is **free** and is open to legal staff at member organisations as well as to client department staff.

And finally a request....

### **Booked on to a training course or the Annual Training Event but now find that you can't make it?**

If this happens to you.....and it might and it does, please try to let us know as soon as you can.

There is a facility to manage your bookings on the website – just click on 'Manage your Bookings'. If you can cancel your place please do so with as much notice as possible.

Or call or email Beryl or Brian to let us know not to expect you. It really does help us to manage the training better and shows respect for the trainers and other colleagues.

Many thanks.

## **CONSORTIUM OFFERS – COMING SOON**

As you know from time to time we are able to bring you offers of assistance from various suppliers at discounted rates for Consortium members.

We have been talking to two such suppliers recently and the Board is looking forward to presenting to you 'offers' from both Thomson Reuters and Lexis Nexis.

The Thomson Reuters offer is a new offer to replace their three year offer which comes to an end shortly and which many member organisations have taken advantage of.

Lexis Nexis are putting together an offer for Consortium members for the first time.

Both organisations will also be exhibiting at the Annual Training Event in St Helens and so would welcome any enquiries to them at their exhibition stands.

We look forward to sharing these with you.

## **REMINDERS**

### **AND WE ARE NOW ON FACEBOOK!**

Facebook will be an excellent facility for us to get messages to you all in addition to the website – so why not connect with us today?

<https://www.facebook.com/NWLegalConsortium/>



## COURSE MATERIALS

If you or your colleagues have missed out on one or more of our Consortium training sessions or the sessions at the Annual Training Event you might find it helpful to see the slides/presentation from the session.

These are all available in the documents area of the website at [www.nwlegalconsortium.com](http://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](mailto: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.

Website Log In If you are an authorised user and you do not think you have received your website log in details then do get in touch with either Brian Gibson on [briangibson2@msn.com](mailto:briangibson2@msn.com) or Beryl Heath at [bh\\_nwlconsortium@btinternet.com](mailto:bh_nwlconsortium@btinternet.com) and we'll do all we can to assist you.

## NEW ROLES UP FOR GRABS?

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

**Oldham Council** are looking for a Children's Solicitor – check out the details on the jobs page

If your authority wants to advertise any vacancies on the website for **free** contact Beryl Heath on [bh\\_nwlconsortium@btinternet.com](mailto:bh_nwlconsortium@btinternet.com).



## CHARITY OF THE YEAR

Please support the North West Air Ambulance Charity

For the Charity's latest events go to:

<http://nwaa.net/>



# NWLC MONTHLY LEGAL UPDATER POWERED BY THOMSON REUTERS

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01/09/18

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](http://westlaw.co.uk) or [uk.practicallaw.com](http://uk.practicallaw.com). You can also follow us on Twitter [@NWLC Consortium](https://twitter.com/NWLConsortium).

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## CASE REPORTS

### **EDUCATION.** *Local government.*

**Budget setting; Children's welfare; Consultation; Fairness; Local authorities' powers and duties; Public sector equality duty; Special educational needs.**

*RR. (on the application of KE) v Bristol City Council. [2018] EWHC 2103 (Admin).* Queen's Bench Division (Administrative Court) (QBD (Admin)). Judge Cotter QC. August 03, 2018

A local authority that had reduced the budget for special educational needs without consultation had breached the public sector equality duty under the Equality Act 2010 s.149, the requirement in the Children Act 2004 s.11 to have regard to the need to promote children's welfare, the duty under the Children and Families Act 2014 s.27 to keep sufficiency of education provision under review, and the common law.

Application granted

### **HOUSING.** *Immigration; Local government.*

**Discrimination; Housing allocation; Housing policy; Local authorities' powers and duties; Public sector equality duty; Refugees; Residence; Social housing.**

*R. (on the application of G) v Hillingdon LBC. [2018] EWHC 1937 (Admin).* Queen's Bench Division (Administrative Court) (QBD (Admin)). Mostyn J. July 26, 2018

A local authority housing allocation scheme which prioritised people who had been resident in the local area for 10 years, and provided an additional uplift for households with an urgent need to move or an identified housing need, did not discriminate against a refugee who had been refused registration on the allocation scheme. The rule was justified by its objective of seeking to allocate a local authority's housing stock fairly at a time when the demand for public housing vastly exceeded supply; moreover, the limitation in issue required only that the claimant be treated the same as any other recent arrival.

Application refused



## **LOCAL GOVERNMENT.** *Licensing; Housing; European Union.*

**EU law; Houses in multiple occupation; Licences; Local authorities; Renewal; Renewal fees; Service provision.**

*R. (on the application of Gaskin) v Richmond Upon Thames LBC. [2018] EWHC 1996 (Admin).* Divisional Court (DC). Hickinbottom LJ; Picken J; Fraser J. July 31, 2018

The owner of a house in multiple occupation was providing a “service” for the purposes of Directive 2006/123 and the Provision of Services Regulations 2009. The licensing provisions of the Housing Act 2004 Pt 2 were an authorisation scheme for the purposes of the Directive and the Regulations. Therefore, the local authority was not entitled to demand that the owner, when applying to renew his licence for the HMO, pay an application fee of GBP 1,799 because that fee infringed art.13(2) of the Directive and reg.18(4) of the Regulations as it was not limited to the costs of the procedures and formalities of the authorisation scheme under Pt 2 of the Act.

Application granted

## **PLANNING.**

**Building extensions; Change of use; Costs; Flats; Permitted development; Planning permission; Unauthorised development.**

*Hackney LBC v Secretary of State for Housing, Communities and Local Government. [2018] EWHC 2174 (Admin).* Queen’s Bench Division (Administrative Court) (QBD (Admin)). Lane J. August 14, 2018

A local authority had erred in refusing planning permission for the sole reason that part of the proposal concerned an unauthorised building extension; it should have determined the application as including a request for retrospective planning permission, and considered the proposal’s merits by reference to national and local planning policy in accordance with the Town and Country Planning Act 1990 s.38(6).

Claim dismissed

## **LEGISLATION**

### **PLANNING.**

**Development corporations; Local planning authorities; New towns; Planning authorities’ powers and duties.**

New Towns Act 1981 (Local Authority Oversight) Regulations 2018. SI 2018/891

These Regulations, which apply in relation to England only, make provision for the local oversight of new town development corporations. The Regulations apply where the Secretary of State, pursuant to the New Towns Act 1981 s.1A(2), makes an order under s.1 of the Act appointing one or more local authorities to oversee the development of the area as a new town.

In Force: In accordance with reg.1

Made under New Towns Act 1981 s.1A(4), s.1A(5)

Legislation amended: Town and Country Planning (New Towns) Special Development Order 1977 (SI 1977/665); Local Government Pension Scheme Regulations 2013 (SI 2013/2356)



## **PUBLIC PROCUREMENT.** *Armed forces.*

**Defence and security contracts; Regulation; Single source contracts; Sub-contracts.**

Single Source Contract (Amendment) Regulations 2018. SI 2018/917

These Regulations amend the Single Source Contract Regulations 2014 which are made under the Defence Reform Act 2014 Pt 2. The Act creates a regulatory framework for single source contracts (that is, contracts which are not competed) in the defence area, and the 2014 Regulations implement the detail of that regulatory framework. The regulatory framework applies to qualifying defence contracts (contracts to which the Secretary of State is party, and which meet the criteria in s.14(2) of the Act), and also to qualifying sub-contracts (sub-contracts to qualifying defence contracts, which meet the criteria in ss.28(3) or (4) of the Act).

In Force: In accordance with reg.1.

Made under Defence Reform Act 2014 s.14(2)(c), s.18(2)(c), s.28(3)(d), s.43(2)(a)(i)

Legislation amended: Single Source Contract Regulations 2014 (SI 2014/3337)

## **GOVERNMENT AND REGULATORY DEVELOPMENTS**

### **HOUSING.** *Social welfare.*

**Homelessness; Housing provision; Vulnerable adults.**

Rough Sleeping Strategy. Issued by Ministry of Housing, Communities and Local Government. Cm.9685 13 August 2018 .

ISBN: 978 1 52860 763 6

A Ministry of Housing, Communities and Local Government publication sets out the three pillars of the Government's rough sleeping strategy, which aims to eradicate rough sleeping entirely by 2027: prevention - understanding the issues that lead to rough sleeping and providing timely support for those at risk; intervention - helping those already sleeping rough with swift support tailored to their individual circumstances; and recovery - supporting people in finding a new home and rebuilding their lives.

Website: <https://www.gov.uk/government/news/rough-sleeping-strategy-prevention-intervention-recovery>

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### **HOUSING.** *Landlord and tenant.*

**Landlords' duties; Social housing; Tenants' rights.**

A new deal for social housing. Issued by Ministry of Housing, Communities and Local Government. Cm.9671 14 August 2018

A Ministry of Housing, Communities and Local Government green paper, part of a "fundamental rethink" on social housing following the Grenfell Tower tragedy, seeks comments on the Government's vision for social housing providing safe, secure homes that help people get on with their lives. It sets out fundamental reform to ensure social homes provide an essential, safe and well managed service and considers how to re-balance the relationship between residents and landlords. Comments by 23.45 on 6 November 2018.

Website: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/733605/A\\_new\\_deal\\_for\\_social\\_housing\\_web\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733605/A_new_deal_for_social_housing_web_accessible.pdf)

Website: <https://www.gov.uk/government/consultations/a-new-deal-for-social-housing>

Website: <https://www.gov.uk/government/news/james-brookshire-launches-a-new-deal-for-social-housing-residents>

Website: <https://www.gov.uk/government/news/social-housing-green-paper-a-new-deal-for-social-housing>



## **LOCAL GOVERNMENT.** *Family law; Social security.*

**Capacity; Local authorities' powers and duties; Ordinary residence.**

Ordinary residence guide: Determining local authority responsibilities under the Care Act and the Mental Health Act. By Local Government Association. 10 August 2018

A Local Government Association publication provides guidance on the concept of ordinary residence. It states that where an individual is ordinarily resident determines which local authority is required to meet their eligible care and support needs under the Care Act 2014. It considers the establishment of ordinary residence for people with capacity following the case of *R. v Barnet LBC Ex p. Shah*.

Website: [https://www.local.gov.uk/sites/default/files/documents/CHIP%20Ordinary%20Resident\\_FINAL%20COPY.pdf](https://www.local.gov.uk/sites/default/files/documents/CHIP%20Ordinary%20Resident_FINAL%20COPY.pdf)

Cases referred: *R. v Barnet LBC Ex p. Shah* [1983] 2 A.C. 309 (HL)  
Legislation referred: Care Act 2014; Mental Health Act 2007

## **NEWS ARTICLES**

### **LOCAL GOVERNMENT.** *Administrative law; Libraries.*

**Decisions; Judicial review; Libraries; Local authorities' powers and duties; Local authority accounts.**

Girl halts insolvent council's plan to close libraries. *Times*, 15 August 2018, 9. By Neil Johnston. Also Reported in *Guardian*, 15 August 2018, 7

Following a judicial review, brought by a girl who cannot be named for legal reasons, of Northamptonshire CC's decision to close 21 of its 36 libraries, Mrs Justice Yip at the High Court has ruled that its flawed decision-making process was unlawful. The council is attempting to reduce its services to the legal minimum in an effort to save £70 million.

### **PLANNING.** *Housing; Local government.*

**Housing; Local authorities' powers and duties; National Planning Policy Framework; Planning permission; Property developers.**

New NPPF rules criticised for rewarding developers for failure. *Times*, 25 July 2018, 16. By Ben Webster. Also Reported in *Daily Telegraph*, 25 July 2018, 1,2,29

The Campaign to Protect Rural England has criticised the introduction of the test under the revised National Planning Policy Framework (NPPF) where developers will benefit from a presumption in favour of planning applications if too few homes are built in a local authority area from November 2018, stating that the policy would allow developers to benefit from their own failure to build homes already approved.



## **SOCIAL WELFARE.**

**Adult social care; Individual savings accounts; Pension funds.**

Care ISA proposal among options for green paper. Sunday Telegraph, 19 August 2018, 1,. By Anna Mikhailova. Also Reported in Independent, 19 August 2018 (Online edition)

It is understood the Government is considering launching a "Care ISA" which would be exempt from inheritance tax, in an effort to solve the social care crisis. Currently, ISAs are taxed at death, so people are incentivised to spend their savings as opposed to keeping them to fund their care. The Treasury has been considering different proposals, also including allowing people to take money out of their pension fund tax-free to fund care, to include in the social care green paper, expected by the end of 2018. In related news, Which? research reveals only a minority of people are saving for care in later life.

Website: <https://www.local.gov.uk/about/news/lga-responds-which-report-adult-social-care>

Website: <https://www.which.co.uk/news/2018/08/care-in-crisis-one-in-10-people-face-care-costs-of-over-100000/> [Accessed 20 August 2018]