



# YOUR MONTHLY E-BULLETIN

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**Issue 65; January 2019**

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## LATEST CONSORTIUM NEWS

### Externalisation Survey – What did you tell us?

I promised to let you know what we learned from our Externalisation Survey which we carried out in association with Thomson Reuters at the end of last year.

I have included the results in a concise, at a glance version below.

But if anyone would be interested to see a fuller version of the results then please contact Beryl Heath at [bh\\_nwlconsortium@btinternet.com](mailto:bh_nwlconsortium@btinternet.com) and you can receive a more detailed version.

### Brexit and Working with LLG

As you may know from e-mails recently sent out, the Ministry for Housing, Communities and Local Government (MHCLG) has requested LLG's input into the impact of Brexit on Local Government providing a welcome opportunity to influence and scope the outcomes for local government once Brexit takes place.

LLG will work proactively with dedicated Policy Advisors within the Local Government EU Exit Team to collaborate on the requirements and concerns relevant to Brexit and the Consortium has been invited to nominate members to a NW Working Group.

Thank you so much to those who have expressed an interest in helping with this work which should benefit all member organisations!

Watch out for more news on this as the detail emerges.

### LGA and possible Local Authorities and Fire Service Legal Framework

The Consortium is aware of correspondence from the LGA received later on last year concerning the possibility of a national framework to access external legal support.

The Chair of your Management Board is in contact with the LGA about their proposals and is keeping up to date with the LGA intentions as they emerge.

Information as to how such a framework would impact upon the work of the Consortium will be released as soon as more is known.

### Consortium FREE Training Programme 2018/2019

You can book yourselves, colleagues or clients on to our FREE courses through the website at [www.nwlegalconsortium.com](http://www.nwlegalconsortium.com)

With this latest programme we have aligned **all course start times as 10am** to avoid confusion and assist all delegates in making their travel arrangements.

**Please note that 10am is the actual start of the training session.**



**Coming up you've got:**

On 23rd January in Warrington, Geldards are presenting 'Managing Contracts and Dealing with Insolvency'

On 6th February in Liverpool, Hill Dickinson are providing 'Debt Recovery, Including Social Care Fees'

On 27th February we have our next Practice Management session at Hill Dickinson's Manchester office

And on 28th February we have the rearranged 'Adult Social Care' training from Weightmans in Manchester  
**(Please note that this is the session that was previously advertised as taking place on 20th February)**

More detail on the website courses page at [www.nwlegalconsortium.com/courses](http://www.nwlegalconsortium.com/courses)

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 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.

## REMINDERS

**Did you see the Consortium Offers coming from Thomson Reuters and Lexis Nexis?**

Following the completion of work with both Thomson Reuters and Lexis Nexis towards the end of last year, your Management Board was delighted to bring forward 'offers' from both suppliers in relation to the supply of legal research materials.

Copies of these important documents were sent to the main/known contact within your member organisation.

Many member organisations have already taken advantage of these offers but if your organisation is interested and hasn't yet found out about what is on offer please contact Beryl Heath at [bh\\_nwlconsortium@btinternet.com](mailto:bh_nwlconsortium@btinternet.com) to learn more.

**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](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 [www.nwlegalconsortium.com/jobs](http://www.nwlegalconsortium.com/jobs)

We are always adding new roles so keep checking.

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)



### **NWLC NOMINATED CHARITY OF THE YEAR**

Please support the North West Air Ambulance Charity

For the Charity's latest events go to:

[nwaa.net](http://nwaa.net)



## HAPPY NEW YEAR FROM THE NORTH WEST AIR AMBULANCE CHARITY!

Everyone at the North West Air Ambulance Charity would like to take this opportunity to wish everyone involved in the North West Legal Consortium a Happy New Year. As a charity reliant on public donations, we wouldn't be here without you so thank you once again for keeping us flying in 2018!

Your continued support really does make a huge difference to our charity and those who need us as David's story below shows.

### Will you help Christopher and his family say 'Thank You' to our crew?

My Daddy is my hero, please will you help me to say thank you to the North West Air Ambulance Charity for saving my Daddy's life after his motorbike accident.

When I grow up I want to be a NWA Pilot and help to save people's lives like they helped to save my daddy's.

Christopher age 6 3/4

In June 2017, my husband, David, had a very serious motorbike accident whilst on a track day at Oulton Park race circuit. This resulted in him being airlifted to hospital by the North West Air Ambulance Charity.

He was in a critical condition and they had to get him to the hospital as quickly as possible. He had broken his spine in 5 places, his shoulder, collarbone, all his ribs, punctured one of his lungs and collapsed the other one. The North West Air Ambulance Charity got him to the hospital in less than 15 minutes and saved his life. **At the time I was 12 weeks pregnant and his accident was 2 days before our first scan.**

Last Christmas our family received the best Christmas present ever. Our daughter, Bethany was born on the 18th December. **It is only because of the North West Air Ambulance Charity that her Daddy was there to bring her home on Christmas Day.**



**Will you help us to say thank you to the North West Air Ambulance Charity by sending a message of support and giving a kind donation?**

It's easy to help us to say thank you, just click on the link above or [here](#)



As a charity, they need your help to keep their helicopters in the air, flying to poorly and injured people across the North West. The North West Air Ambulance Charity would not be here without people like you and I giving our support so please donate and show how much you care.

Best Wishes

*Claire Lambert*

Claire, David, Christopher and Bethany Lambert



# NWLC MONTHLY LEGAL UPDATER

POWERED BY THOMSON REUTERS AND PRACTICAL LAW

01/01/19

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

## CASES

### **HOUSING. *Local government.***

**Homelessness; Housing allocation; Housing policy; Local authorities' powers and duties; Reasons; Suitability.**

*Alibkhiet v Brent LBC. [2018] EWCA Civ 2742.* Court of Appeal (Civil Division) (CA (Civ Div)). Lewison LJ; Henderson LJ; Asplin LJ. December 06, 2018

Two local authorities in London had lawfully discharged their full housing duty under the Housing Act 1996 s.193 by offering homeless persons accommodation outside their respective districts.

Adam's appeal dismissed, Brent LBC's appeal allowed

### **LOCAL GOVERNMENT. *Real property.***

**Assets of community value; Charities; Compensation; Diminution in value; Loss; Sale of land.**

*St John Ambulance v Teignbridge DC. 2018 WL 06527825.* First-tier Tribunal (General Regulatory Chamber) (FTT (GRC)). Judge Bird. November 16, 2018

A landowner could, in principle, recover compensation under the Assets of Community Value (England) Regulations 2012 reg.14 for a diminution in the value of his land caused by its being listed as an asset of community value. There was no reason why a claim for compensation should not lie where the landowner could demonstrate that the land's value had been diminished, or a sale had fallen through, by reason of its inclusion on the list.

Appeal allowed

### **MENTAL HEALTH. *Administration of justice.***

**Community treatment orders; Conditions; Deprivation of liberty; Mental health review tribunals.**

*Welsh Ministers v PJ. [2018] UKSC 66. Supreme Court (SC).* Lady Hale PSC; Lord Kerr JSC; Lord Wilson JSC; Lady Black JSC; Lord Lloyd-Jones JSC. December 17, 2018

It was not permissible for a responsible clinician to impose conditions in a community treatment order which would amount to a deprivation of the patient's liberty.

Appeal allowed





## **MENTAL HEALTH. *Human rights.***

**Conditional discharge; Conditions; Consent; Deprivation of liberty; Detention; Restricted patients; Right to liberty and security.**

Secretary of State for Justice v MM. [2018] UKSC 60. Supreme Court (SC). Lady Hale PSC; Lord Kerr JSC; Lord Hughes JSC; Lady Black JSC; Lord Lloyd-Jones JSC. November 28, 2018

The Mental Health Act 1983 s.42(2) and s.73(2) did not permit either the First-tier Tribunal or the Secretary of State for Justice to impose conditions amounting to detention or a deprivation of liberty on a conditionally discharged restricted patient, even if the patient consented.

Appeal dismissed

## **LEGISLATION**

### **LANDLORD AND TENANT. *Construction law.***

**Building regulations; Fitness for habitation; Residential accommodation; Residential tenancies.**

Homes (Fitness for Human Habitation) Bill 2017 (HC Bill 234).

To amend the Landlord and Tenant Act 1985 to require that residential rented accommodation is provided and maintained in a state of fitness for human habitation; to amend the Building Act 1984 to make provision about the liability for works on residential accommodation that do not comply with Building Regulations; and for connected purposes.

Website: [services.parliament.uk/Bills/2017-19/homesfitnessforhumanhabitation/documents.html](https://services.parliament.uk/Bills/2017-19/homesfitnessforhumanhabitation/documents.html)  
[Accessed at 29 October 2018]

Hansard: HC Vol 627 col 875 (1st Reading); Vol 634 col 1169 (2nd Reading); Vol 648 col 536 (3rd Reading)

Commons 1st Reading: 19/7/2017 | HC Vol 627 col 875; 2nd Reading: 19/1/2018 | HC Vol 634 col 1169;  
Committee Stage: 20/6/2018; Report Stage: 26/10/2018; 3rd Reading: 26/10/2018 | HC Vol 648 col 536;  
Lords 1st Reading: 29/10/2018 (HL Bill 139); 2nd Reading: 23/11/2018; 3rd Reading: 19/12/2018 provisional

Legislation referred: Building Act 1984; Landlord and Tenant Act 1985

## **MENTAL HEALTH.**

**Consent; Deprivation of liberty; Mental capacity.**

Mental Capacity (Amendment) Bill 2018 (HL Bill 117).

A Bill to amend the Mental Capacity Act 2005 in relation to procedures in accordance with which a person may be deprived of liberty where the person lacks capacity to consent; and for connected purposes. It was read a first time and ordered to be printed.

Website: [services.parliament.uk/Bills/2017-19/mentalcapacityamendment/documents.html](https://services.parliament.uk/Bills/2017-19/mentalcapacityamendment/documents.html)  
[Accessed at 4 July 2018]

Hansard: HL Vol 792 cols 499 (1st Reading); 1059 (2nd Reading); 1808 (Committee Stage); Vol 794 col 1242 (3rd Reading)

Commons 1st Reading: 11/12/2018 (HC Bill 303); 2nd Reading: 18/12/2018; Lords 1st Reading: 3/7/2018 | HL Vol 792 col 499; 2nd Reading: 16/7/2018 | HL Vol 792 col 1059; Committee Stage: 1st Sitting 5/9/2018 | HL Vol 792 col 1808; 2nd Sitting 15/10/2018; 3rd Sitting 22/10/2018; Report Stage: 1st Sitting 21/11/2018; 2nd Sitting 27/11/2018; 3rd Reading: 11/12/2018 | HC Vol 794 col 1242 DOCLINK DOC=<https://services.parliament.uk/Bills/2017-19/mentalcapacityamendment/documents.html> TEXT=



### **ACCOUNTANCY. Local government.**

**Audit Commission; Consequential amendments; Delegation; Extensions of time; Local government audit; Ministers' powers and duties; NHS.**

Local Audit and Accountability Act 2014 (Commencement No. 7, Transitional Provisions and Savings) (Amendment) Order 2018. SI 2018/1369 (C. 97)

This Order amends the Local Audit and Accountability Act 2014 (Commencement No. 7, Transitional Provisions and Savings) Order 2015. Art.2 amends the date until which the functions of the Audit Commission for Local Authorities and the NHS in England under the provisions listed in art.(2) of the 2015 Order may be exercised by a Minister of the Crown. This amendment also changes the date until which the Minister may delegate the exercise of any such function to other persons or bodies.

## **GOVERNMENT AND REGULATORY**

### **HOUSING.**

**Homelessness; Service provision.**

James Brokenshire announces £5m for new network of rough sleeping hubs. By Ministry of Housing, Communities and Local Government. 18 December 2018

Eleven rough sleeping hubs are to be launched across England, providing specialist support for thousands of vulnerable people. The schemes will be up and running by spring 2019 with locations including Bristol, Derby and West London. As part of the Government's Rough Sleeping Strategy, 11 Somewhere Safe to Stay centres will be set up and will help provide immediate shelter and rapid assessment for those sleeping rough or at risk of doing so as well as specialist support to address those with complex needs such as mental health problems and substance misuse.

Website: [www.gov.uk/government/news/james-brokenshire-announces-5m-for-new-network-of-rough-sleeping-hubs](http://www.gov.uk/government/news/james-brokenshire-announces-5m-for-new-network-of-rough-sleeping-hubs) [Accessed at 18 December 2018]; [www.gov.uk/government/publications/rapid-rehousing-pathway-somewhere-safe-to-stay-early-adopters/rapid-rehousing-pathway-somewhere-safe-to-stay-early-adopters](http://www.gov.uk/government/publications/rapid-rehousing-pathway-somewhere-safe-to-stay-early-adopters/rapid-rehousing-pathway-somewhere-safe-to-stay-early-adopters) [Accessed 18 December 2018]

### **ROAD TRAFFIC.**

**Bills; Codes of practice; Fines; Parking; Private companies.**

Boost for drivers as government backs single appeals service. By Ministry of Housing, Communities and Local Government. 23 November 2018

Thousands of drivers are set to benefit after the Government backed a "one-stop shop" for appeals for private parking fines. The Parking (Code of Practice) Bill 2017, which will deliver on a manifesto commitment to tackle rogue parking operators, received the backing of the House of Commons and will now go to the House of Lords. A new code of practice will also be developed to tackle rogue firms.

Website: [www.gov.uk/government/news/boost-for-drivers-as-government-backs-single-appeals-service](http://www.gov.uk/government/news/boost-for-drivers-as-government-backs-single-appeals-service) [Accessed at 26 November 2018]

Legislation referred: Parking (Code of Practice) Bill 2017 (United Kingdom)





### **HUMAN RIGHTS.***Banking and finance; Landlord and tenant; Real property.*

#### **Admissibility; Mortgagees; Possession orders; Right to respect for private and family life; Tenants' rights.**

Court examines private versus public landlord-tenant relationships, dismisses case brought by a private tenant complaining about a possession order. By European Court of Human Rights. ECHR 411 (2018) 29 November 2018

In FJM v UK (76202/16) the European Court of Human Rights unanimously declared the application inadmissible. The case concerned a possession order against a tenant after the landlords, who were also her parents, defaulted on their mortgage payments. The applicant complained under the European Convention of Human Rights 1950 art.8 that the UK courts had refused to carry out a balancing exercise between her rights as a tenant to not lose her home and the mortgagee's right to be repaid.

Website: [hudoc.echr.coe.int/eng-press?i=003-6264839-8157993](https://hudoc.echr.coe.int/eng-press?i=003-6264839-8157993) [Accessed at 29 November 2018];  
[hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-6264839-8157993&filename=Decision%20F.J.M.%20v.%20the%20United%20Kingdom%20-%20private%20versus%20public%20landlord-tenant%20relationships.pdf](https://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-6264839-8157993&filename=Decision%20F.J.M.%20v.%20the%20United%20Kingdom%20-%20private%20versus%20public%20landlord-tenant%20relationships.pdf) [Accessed 29 November 2018]

Cases referred: FJM v UK (76202/16)~ unreported 29 November 2018 (ECHR)

Legislation referred: European Convention on Human Rights 1950 art.8

## **NEWS RELEASES**

### **LANDLORD AND TENANT.***Local government.*

#### **Databases; Landlords; Lettings agencies; Local authorities' powers and duties; Penal notices; Prosecutions.**

RLA finds that nine in 10 local authorities have failed to tackle rogue landlords. *Guardian*, 29 November 2018, 37. By Simon Goodley.

According to data provided by 293 English local authorities responding to freedom of information requests made by the Residential Landlords Association (RLA), only 11% of local authorities issued a civil penalty notice against a landlord or letting agent during 2017/18 and that more than one in seven councils in England and Wales have failed to prosecute a single rogue landlord over the past three years. The RLA also notes that the central government's rogue landlord database is empty six months after its launch.

### **HUMAN RIGHTS.***Local government.*

#### **Cemeteries; Freedom of thought conscience and religion; Local authorities' powers and duties.**

Muslim man challenges policy of council on graves. *Independent*, 4 December 2018. By Toyin Owoseje.

Muslim Atta Ul-Haq is preparing to challenge Walsall Borough Council in the High Court after he was prevented from building an edge around his father's grave. The Council prohibits borders around individual graves at Streetly Cemetery. He has accused it of breaching his human rights by not allowing the border which would prevent people walking across the burial site. He argues Islam forbids people from stepping on graves and claimed the policy breaches ECHR art.9.

Website: [www.independent.co.uk/news/uk/home-news/muslim-man-high-court-father-grave-walsall-council-human-rights-echr-a8666856.html](https://www.independent.co.uk/news/uk/home-news/muslim-man-high-court-father-grave-walsall-council-human-rights-echr-a8666856.html) [Accessed at 5 December 2018]

Legislation referred: European Convention on Human Rights 1950 art.9

# NWLC survey at a glance

## Top 3 reasons for outsourcing legal services



Expertise  
53%

Required legal specialism not available in house



Complexity  
47%

Complex work better suited to being handled externally



Capacity  
36%

In-house capacity not available to meet deadlines

## Most frequently used services



### NWLC Barristers

59% of respondents used 4 times a year on average



### NWLC Solicitors

59% of respondents used 3 times a year on average



### Non NWLC Barristers

47% of respondents used 3.5 times a year on average

33% of respondents using barrister services used them solely for legal advice; 21% used them for advocacy, with a further 46% using both types of service.

## Top 3 reasons for selecting type of legal service

	NWLC Solicitor	Non NWLC Solicitor	NWLC Barrister	Non NWLC Barrister	Other NWLC Member
Previously used	1	1	1	1	3
Competitive cost	2	2	2	3	1
Good relationship	3	2	3	2	1

## Top 3 things looked for in a supplier



Good value for money



Ability to deliver to timescales



Good working relationship



## Most popular frameworks

### NWLC Solicitors



Projects, Procurement and Commercial



Property, Planning and Environment

### NWLC Barristers



Planning & Environment



Employment

## When to retain or outsource legal work?

### Work is more likely to be retained when



Long deadlines



Chance to develop in house skills

### Work is more likely to be outsourced when



Work is complex



Task is large

## Expectations for next 12 months



36% expect demand for external legal services will be unchanged

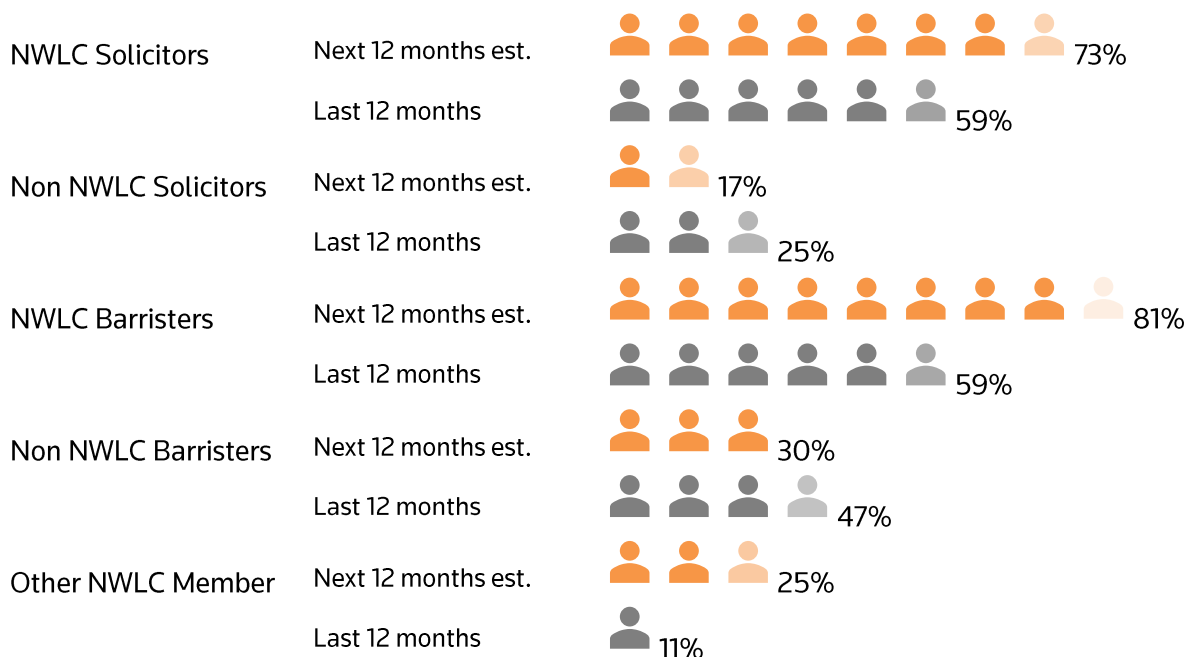


34% expect an increase in the use of external legal services



15% of workload will be carried out by external legal services

## % of respondents using external legal services



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