



YOUR MONTHLY E-BULLETIN

Issue 66; February 2019

LATEST CONSORTIUM NEWS

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.

Thank you so much to those who have expressed an interest in helping LLG with this work from the NW region 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

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

On 28th February we have the rearranged 'Adult Social Care' training from Weightmans in Manchester

On 6th March in Manchester, DAC Beachcroft are covering Real Estate

Bury Council are hosting their Annual Rates and Finance Update on 18th March in Bury, – staff from other Consortium member organisations are welcome to attend

On 20th March in Warrington Geldards are providing Regeneration Projects/Development Agreements

More detail on the website courses page at 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.

Recent training sessions have had a significant number of delegates not attending and this can make things difficult for presenters and other delegates.

If you can cancel your place please do so with as much notice as possible.

There is a facility to manage your bookings on the website – just click on 'Manage your Bookings'

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

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.

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 or Beryl Heath at 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

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

NWLC NOMINATED CHARITY OF THE YEAR



Please support the North West Air Ambulance Charity

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



**We wouldn't be here
without you!**



**See how
you can get
onboard!**

As a local charity, we need your support!



Volunteer with us. We need people like you!



Visit one of our many shops across the region



Join our lotto. £1 per week for a chance to win £1,000!



Fundraise for us at work, at home or in the community



Challenge yourself to a skydive, walk or run

**For more information about how you can make a difference,
please get in touch**

www.nwaa.net

0800 587 4570

Registered charity no: 1076541



Follow Us





NWLC MONTHLY LEGAL UPDATER

POWERED BY THOMSON REUTERS AND PRACTICAL LAW

01/02/19

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

HOUSING. *Local government; Employment.*

Housing allocation; Housing associations; Judaism; Local housing authorities' powers and duties; Protected characteristics; Public sector equality duty; Race discrimination; Religious discrimination.

R. (on the application of Z) v Hackney LBC. [2019] EWHC 139 (Admin). Divisional Court (DC). Lindblom LJ; Sir Kenneth Parker. February 04, 2019

A housing association had not unlawfully discriminated against non-Orthodox Jewish applicants under the Equality Act 2010 by allocating social housing only to members of the Orthodox Jewish community. It had been justified in taking "positive action" under s.158 because members of the Orthodox Jewish community suffered real and substantial disadvantages and had different needs to persons who did not share the protected characteristic of their religion.

Application refused

MENTAL HEALTH. *Local government.*

Care in the community; Conditional discharge; Consent; Deprivation of liberty; Inherent jurisdiction; Restricted patients; Vulnerable adults.

Hertfordshire CC v AB. [2018] EWHC 3103 (Fam). Family Division (Fam Div). Knowles J. October 01, 2018

The Court of Appeal's decision in PJ (A Patient) v Local Health Board [2017] EWCA Civ 194, [2017] 1 W.L.R. 4681, [2017] 3 WLUK 717, [2017] C.L.Y. 1538 created a legislative void by determining that the Mental Health Act 1983 did not permit the First-tier Tribunal to order the conditional discharge of a restricted patient on conditions that amounted to a deprivation of liberty, even if the patient consented. In light of that, the High Court exercised its inherent jurisdiction to provide lawful authorisation for conditions of discharge which amounted to a deprivation of liberty for a capacitous restricted patient who consented.

Application granted

PLANNING. *Education; Local government.*

Change of use; Nurseries; Permitted development; Schools.

Bright Horizons Family Solutions Ltd v Secretary of State for Communities and Local Government. [2019] EWHC 14 (Admin). Queen's Bench Division (Administrative Court) (QBD (Admin)). CMG Ockelton. January 16, 2019

A nursery was not a "school" within the meaning of the Town and Country Planning (General Permitted Development) (England) Order 2015 Sch.2 Pt 7 Class M.

Application refused



PUBLIC PROCUREMENT. *Health; European Union.*

Award criteria; Equal treatment; Invitations to tender; Justification; Margin of appreciation; Pharmaceuticals; Public procurement procedures.

Abbvie Ltd v NHS Commissioning Board. [2019] EWHC 61 (TCC). Queen's Bench Division (Technology & Construction Court) (QBD (TCC)). Choudhury J. January 18, 2019

Tender documents issued by NHS England during a public procurement exercise for the supply of drugs for the treatment and elimination of hepatitis C were not unlawful and did not breach the duty of equal treatment in the Public Contracts Regulations 2015 reg.97.

Claim dismissed

LEGISLATION

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
[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); HC Vol 651 col 726 (2nd Reading); Vol 654 col 792 (Report Stage), (3rd Reading)

Commons 1st Reading: 11/12/2018 (HC Bill 303); 2nd Reading: 18/12/2018 | HC Vol 651 col 726; Committee Stage: 1st and 2nd Sitting 15/1/2019; 3rd Sitting 17/1/2019; further sitting 22/1/2019; Report Stage: 12/2/2019 | HC Vol 654 col 792; 3rd Reading: 12/2/2019 | HC Vol 654 col 792; 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 | HL Vol 794 col 1242; Ping Pong 26/2/2019 provisional (HL Bill 161) DOCLINK DOC=<https://services.parliament.uk/Bills/2017-19/mentalcapacityamendment/documents.html> TEXT=

Legislation referred: Mental Capacity Act 2005

HOUSING. *Landlord and tenant; Real property.*

Consequential amendments; Houses; Land transactions; Reliefs; Right to acquire; Right to buy; Savings provisions; Wales.

Abolition of the Right to Buy and Associated Rights (Wales) Act 2018 (Consequential Amendments and Savings Provisions) Regulations 2019. SI 2019/110

These Regulations make amendments to the Housing Act 1985 and Land Transaction and Anti-avoidance of Devolved Taxes (Wales) Act 2017 in consequence of the Abolition of the Right to Buy and Associated Rights (Wales) Act 2018. The Regulations make saving provisions to ensure that relevant provisions within the 1985 Act will continue to apply in respect of applications made to exercise the right to buy or the right to acquire in respect of dwelling-houses in Wales on or before 25 January 2019 and in respect of dwelling-houses which have been purchased under the right to buy or the right to acquire on or before that date (or after that date in pursuance of a notice served before that date). The Regulations also make saving provisions to ensure that relevant reliefs within Schedule 15 to the 2017 Act will also apply in respect of transactions arising from applications made to exercise certain rights to buy and rent to mortgage submitted on or before 25 January 2019.



In Force: 26 January 2019

Made under Abolition of the Right to Buy and Associated Rights (Wales) Act 2018 s.9

Legislation amended: Housing Act 1985; Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

GOVERNMENT AND REGULATORY

LOCAL GOVERNMENT.

Councillors; Ethics; Local government; Standards of conduct.

Local government ethical standards. By Committee on Standards in Public Life. 21 January 2019

The Committee on Standards in Public Life will be publishing its report on local government ethical standards at 10.00 on 30 January 2019. The report will look at the current framework governing the behaviour of local government councillors and executives in England and make a number of recommendations to promote and maintain the standards expected by the public.

Website: www.gov.uk/government/collections/local-government-ethical-standards
[Accessed at 22 January 2019]

LOCAL GOVERNMENT.

Funding; Local authorities; Risk; Service provision; Sustainability.

£8 billion funding black hole by 2025 will swallow up popular council services. By Local Government Association. 1 February 2019

The Local Government Association (LGA) is launching a campaign warning about the growing risk to vital local services if the Government does not take action to secure the financial sustainability of councils. With councils in England facing an overall funding gap of £8 billion by 2025, the LGA has produced a list of seven popular discretionary services that councils might need to consider reducing in order to meet their statutory duties. These include: issuing penalty notices for fly-tipping and graffiti; support and training for businesses to ensure food hygiene and standard; and management and improvement of parks and green spaces.

Website: www.local.gov.uk/about/news/funding-black-hole [Accessed at 1 February 2019]

LANDLORD AND TENANT. *Housing; Human rights.*

Disability discrimination; Disabled persons; Landlords' duties; Reasonable adjustments; Tenants' rights.

Disabled woman wins court case to make necessary adaptations to her home. By Equality and Human Rights Commission. 30 January 2019

Landlords must allow disabled leaseholders to make alterations to their homes that are reasonable and necessary following a case supported by the Equality and Human Rights Commission in which Cardiff County Court ruled that a landlord acted unlawfully by refusing to allow Stacey Smailes, who has restricted mobility, to make necessary adaptations to her home. The Court ruled that the landlord should have allowed the alteration works, which were reasonable in light of her disability.

Website: www.equalityhumanrights.com/en/our-work/news/disabled-woman-wins-court-case-make-necessary-adaptations-her-home [Accessed at 31 January 2019]



NEWS RELEASES

HEALTH. *Mental health.*

Care homes; Deprivation of liberty safeguards; Detained residents; Mental capacity; Vulnerable adults.

New law means care homes could profit from detaining vulnerable patients. *Times, 22 January 2019, 4.*
By Chris Smyth.

In a letter to The Times, 13 charities and rights groups have warned that hundreds of thousands of vulnerable people risk “exploitation and abuse” as a result of changes tripling the time they can be detained without review, and that care home managers who could profit will be involved in the decisions. Approvals of any restrictions imposed under deprivation of liberty safeguards which prohibit anyone under continuous supervision from walking out of a care home can take over four months on average. Ministers estimate that clearing the backlog under existing law would cost £2 billion and have put forward a streamlined system in the Mental Capacity (Amendment) Bill 2018, which is being considered by the House of Commons.

Legislation referred: Mental Capacity (Amendment) Bill 2018 (HL Bill 117)

LOCAL GOVERNMENT. *Education.*

Fixed penalty notices; Holidays; Local authorities’ powers and duties; Penalties; School attendance.

£1,000 fines for children’s holidays in term time. *Sunday Times, 20 January 2019, 1.* By Sian Griffiths.

Lancashire County Council, which has issued parents with more term time holiday penalty notices than almost any other local authority, is considering a plan to issue fines of £1,000 per child per parent if they take children out of school in term time. Currently parents in the county face a £120 fixed penalty notice per child.