

# Coronavirus and homelessness – Part 1

**Mark Prichard & Justin Bates**

The recording may be accessed [here](#).

## Before we begin...

- The purpose of these notes is to provide a reminder of the webinar, and to provide information for the purpose of general awareness and discussion.
- The webinar and these notes should not be construed as legal advice, or relied upon as a substitute for legal advice regarding any actual legal issue, dispute, or matter.
- The presenters will not be liable by reason of breach of contract, negligence or otherwise for any loss or consequential loss incurred by any person acting or omitting to act in reliance upon any presentation or material or, except to the extent that any such loss does not exceed the fee for the event, arising from or connected with any error or omission in the presentation material.

# Introduction

Who are we?

What is this about?

Part 1 and Part 2

Questions and engagement

## Overview

- Letter from Minister on 26 March 2020:
  - “It is our joint responsibility to safeguard...”
  - “Our strategy must be to bring in those on the streets...”
  - “Utilise alternative powers and funding to assist those with [NRtPF] who require shelter and forms of support...”
  - “Urgently procuring accommodation for people on the streets...”
  - “...utilise your commissioned homeless services...”
  - “In the longer term...necessary to identifying [sic] step-down arrangements...including...re-opening of shelter-type accommodation.”
  - “...by the end of next week.”
  - “...grant will cover all costs incurred in the first phase...”

## Overview (2)

- Funding.
- Lack of statutory guidance.
- Part 7 of Housing Act 1996 not amended.
- Paperwork lag.
  - Applicants not notified or informed on basis upon which accommodated.
  - LAs playing 'catch up'.
  - LAs themselves not taken view on how basis upon which actions should be interpreted.

## Overview (3)

- Historic opportunity.
- But uncertainty:
  - Future funding.
  - Possession notices & claims.
  - Stay on proceedings ending on 23 August 2020?
  - Temporary accommodation.
- Scope for contentious arguments?

## Applications

What is an application? S.183(1) and 184(1)

- No form to complete
- No need to say “I am homeless” – question is whether they have applied for assistance and authority has reason to believe that they are homeless or threatened with homelessness
- What about immigration offenders?
- What about capacity?
- Factually, was an application made? Is picking someone up off the streets enough?

## Eligibility

s.185 and regulations thereunder

How do you house an ineligible person?

- s.185 is a bar – no “human rights” exception
- Localism Act 2011? But cannot be used to bypass another statute
  - *R (GS) v Camden LBC* [2016] EWHC 1762 (Admin) provides support for the alternative view, the correctness of that decision has twice been doubted: *R (Aburas) v Southwark LBC* [2019] EWHC 2754 (Admin) and *R (AR) v Hammersmith & Fulham LBC* [2018] EWHC 3453 (Admin).
- Letter 28 May 2020 from Luke Hall MP
- Care Act 2014? But two tier areas? And housing is not itself a Care Act service



## Asking the wrong question?

- Provision of accommodation in national emergency purpose of Part 7?
- Acting not as LA but assisting HM Govt deliver emergency response to national emergency?
- LA should seek legal advice.
- In absence of guidance and with position unclear:
  - ‘Hedge bets’ when explaining basis of provision to ineligible/non-PN?

## Are you homeless?

- **No accommodation** which individual has a right to occupy because of:
  - legal interest (e.g. ownership or tenancy)
  - licence (permission)
- **Accommodation – but not available**
  - cannot secure entry (physical availability)
  - not available for all household members (legal availability)
- **Not reasonable to continue to occupy** accommodation
  - unaffordable
  - occupation will lead to domestic abuse or violence / threats of violence which are likely to be carried out
  - other reason

## Reasonable to continue to occupy

- Open ended category:
  - Risk to health.
  - Power to compare applicant's circumstances with housing conditions prevailing in LA's district (s.177(2)).

## Affordability

- Open ended category:
- Inability to meet housing costs + necessities of life + reasonable living expenses.
- Requires objective assessment (*Samuels v Birmingham CC* [2019] UKSC 28 at [34]).
- Affordability must be judged on basis that accommodation available indefinitely, (*Samuels* at [34] applying *Birmingham CC v Ali* [2009] UKHL 36).

## Compare within the district

Power to compare applicant's circumstances with housing conditions prevailing in LA's district (s.177(2)).

## Q&A

**We will now answer as many questions as possible.**

**Please feel free to continue sending any questions you may have via the chat section which can be found along the top or bottom of your screen.**

# Thank you for listening

© Copyright Landmark Chambers 2020

**Disclaimer: The contents of this presentation do not constitute legal advice and should not be relied upon as a substitute for legal counsel.**

## London

180 Fleet Street  
London, EC4A 2HG  
+44 (0)20 7430 1221

## Birmingham

4th Floor, 2 Cornwall Street  
Birmingham, B3 2DL  
+44 (0)121 752 0800

## Contact us

✉ [clerks@landmarkchambers.co.uk](mailto:clerks@landmarkchambers.co.uk)  
🌐 [www.landmarkchambers.co.uk](http://www.landmarkchambers.co.uk)

## Follow us

🐦 [@Landmark\\_LC](https://twitter.com/Landmark_LC)  
🌐 [Landmark Chambers](https://www.linkedin.com/company/landmark-chambers/)