

Annette Cafferkey

Year of Call: 1994

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Practice Summary

Annette specializes in the broad areas of housing, homelessness and allocation, property, local government, landlord and tenant, housing regulation, Public and Administrative work, and has also done some work on regulatory standards in care homes.

In relation to housing, the breadth of work covered includes possession proceedings (including all issues arising such as those under the Equality Act 2010, the Human Rights Act 1996, and other lines of public law argument), homelessness and housing allocation (Parts 6 and 7, Housing Act 1996), housing standards (Housing Act 2004), HMO licensing, housing offences, and inquests concerning housing and social-care issues.

Annette has extensive and many years of experience in homelessness matters and social housing allocation, with appearances in the County Court, High Court, Court of Appeal, and the Supreme Court.

In relation to Local Government work, this incudes a broad-base of regulatory matters, including public space protection orders, closure orders, and anti-social behaviour injunctions.

Her Local Government and Public and Administrative work has extended in more recent years to election law and local government reorganization matters.

In relation to her Landlord and Tenant work, this includes all manner of advisory and court work in concerning all forms of occupation including under the Rent Act 1977, the Housing Act 1985, the Housing Act 1988 and the Landlord and Tenant Act 1954. She has extensive experience in long leasehold disputes, including service charge disputes, right to manage, appointment of a manage, third-party claims, and forfeiture. She also specializes in real property, including boundary disputes and adverse possession.

Annette's client base includes local authorities, public bodies, private entities and persons, regulatory authorities, and political parties. Her work includes advisory work, and the full range of

court work.

Her career began at the Chancery Bar where she developed a solid grounding in property and landlord and tenant work, with some commercial and insolvency work. She moved on in her early years as a junior barrister to do work in a broad range common law areas, chancery, insolvency, landlord and tenant, education and special needs, housing, and she also gained extensive experience of criminal and licensing matters in the Magistrates Court.

As her career progressed, she moved to Arden Chambers in 2000, where her areas of specialism narrowed, to focus on housing, landlord and tenant, property, public and local government work. In 2018, she moved with other members of Arden Chambers to 4-5 Grays Inn Square.

Annette has long been recognised in both the Legal 500 and Chambers and Partners as a leading junior. Her court appearances are at every level of court, from the Magistrates Court, to Tribunals, the County Court, the Court of Appeal, and the Supreme Court.

Public and Administrative

Annette's span of work in this area is broad. It includes property work, homelessness, and the allocation of social housing including the lawfulness of allocation schemes. Her experience in other areas of Public Law has included acting as junior counsel for a local authority in relation to its challenge to the closure of the local A&E hospital, regulatory standards in housing, Housing in Multiple Occupation and the licensing of student accommodation, and as junior counsel for a political party in relation to a challenge brought against the cancellation of local elections.

Housing and Property

Annette specialises and has extensive experience in both public and private property matters. Her work has covered the whole range of work that arise in these areas, from straightforward possession proceedings, to more complicated lines of challenge based on public law (and associated public law legislation), succession, disrepair, tort, and difficult adverse possession cases, and land registration.

She has extensive and longstanding experience in long leasehold disputes, including service and administration charges, Right to Manage (RTM), appointment of managers, applications for dispensation, consultation requirements, and forfeiture proceedings.

Her work includes housing regulatory matters (HHSRS enforcement, HMO disputes, rent repayment orders, and other regulatory areas), civil penalties, housing prosecutions for Local Authorities, and housing fraud.

Inquests

Annette's practice has more recently expanded to include inquest work, including Article 2 and jury inquests. She appeared for the London Borough of Islington in its capacity as the local housing authority at an Article 2 jury inquest concerning the death of Nashon, in which the jury concluded that the deceased died unlawfully as a result of a fatal stabbing and made findings of failings on the part of the police with a clear and direct causal connection to Nashon's death.

Reported Cases

R(ota Elkundi) v Birmingham City Council; R(ota Ross) v Birmingham CC [2022] EWCA Civ 601; [2022] QB 604 – performance of housing duties under Part 7, Housing Act 1996, appearing for Birmingham.

Broderick v Coventry City Council [2020] EWHC 2083; [2021] CLY 1509 – appearing for Coventry City Council. The High Court dismissed the appeal, holding that the Valuation Tribunal were entitled to hold that the appellant had been residing in a property as his main home, despite the fact that it was the subject of a letting to another person.

Michael v Lillitos [2019] EWHC 2716; [2019] Costs LR 1615 – appearing for the appellant, in a case concerning rent arrears arising under a commercial lease. The High Court allowed an appeal against the dismissal of a relief from sanction application. The refusal of relief had been wholly disproportionate to the breach of an unless order. There is an onus on litigation parties to work co-operatively together in the conduct of litigation.

Smith v Khan [2018] EWCA Civ 1137; [2019] 1 P&CR 4 – appearing for the appellant. The Court of Appeal allowed the appeal, holding that the lower court had erred in its approach to the principles of surrender by operation of law.

Nottingham City Council v Parr [2018] UKSC 51; [2018] 1 WLR 4985 – junior counsel for Nottingham. An appeal concerning room sizes and the number of permitted occupiers that could be specified on an HMO licence.

Poshteh v Royal Borough of Kensington & Chelsea {2017] UKSC 36; [2017] AC 264 – appearing as junior counsel for RBKC (having appeared for it in the Court of Appeal). The Supreme Court dismissed the applicant's appeal and refused to depart from its previous decision in *Ali v Birmingham City Council [2010] where it held that appeals under Part 7, Housing Act 1996 did not engage Art 6, ECHR.*

London & Quadrant v Patrick [2019] EWHC 1263; [2020] HLR 2 – appearing for L&Q. The High Court dismissed the tenant's appeal against a possession order made at a summary hearing, in circumstances where breach of the Public Sector Equality Duty. The High Court considered the principles underlying the PSED and its operation in the housing context.

Wigmore Homes (UK) Ltd v Spembly Works RA [2019] HLR 6; [2019] L& TR 12 – appearing for the Residents' Association, whose appeal succeeded in reducing the service charge liability by 50%.

Smith v Khan [2018] EWCA Civ 1127; [2018] HLR 31 – surrender, unlawful eviction, damages

Nottingham City Council v Parr [2017] AC 624; [2017] PTSR 879 – HMO licensing, overcrowding, room sizes, student accommodation

Poshteh v RBKC [2015] EWCA Civ 711; [2015] HLR 36 – appearing for RBKC responding to an appeal about the suitability of accommodation offered in the performance of homelessness duties. On appeal it was argued that the test of "anxious scrutiny" applied. The appeal was dismissed.

R (ota Enfield LBC) v Barnet Clinical Commissioning Group [2013] EWHC 3490 – the local authority sought to challenge the NHS decision to close a local A&E department as part of the NHS Trust's

decision to reorganise hospital services.

Barking and Dagenham LBC v Bakare [2012] EWCA Civ 750; [2012] HLR 31 – appearing for RBKC against Defendant's appeal against a possession order based on ASB. Appeal dismissed.

Makisi v Birmingham CC [2011] EWCA Civ 355 – junior counsel for Birmingham in an appeal concerning the regulatory procedure for statutory homelessness reviews

Nzamy v Brent LBC [2011] EWCA Civ 283; [2011] HLR 20 – junior counsel for the homeless applicant appealing against the lower court's decision about the alleged discharge of duty under s.193(2), Housing Act 1996. Appeal allowed.

Norwich CC v Marshall [2008] 10 WLUK 521 – appearing for the local authority in relation to the recover of management charges under RTB leasehold provisions

Southwark LBC v Kofi-Adu [2006] EWCA Civ 281; [2008] HLR 33 – responding to the local authority's appeal against the dismissal of a possession claim. Appeal brought on grounds of the lower court's conduct.

Noteworthy Cases

R (ota Reform UK Party Ltd) v Secretary of State for Housing, Communities and Local Government [2026] UKHC (Admin) – urgent Judicial review brought by Reform UK on an expedited basis, challenging the Government's decision to cancel local elections for approximately 70 authorities. The case was listed for a 2-day final hearing before a Divisional Court, six weeks after the claim was issued. Two days before the final hearing, the Government conceded the case and revoked its order cancelling the elections.

Housing Standards

Homelessness

> Poshteh v RB Kensington & Chelsea, SoS intervening [2017] UKSC 36; [2017] AC 624 - suitability of accommodation; article 6 ECHR. Homelessness appeal dismissed. Junior Counsel for the Authority.
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> Poshteh v RB Kensington & Chelsea [2015] EWCA Civ 711; [2015] HLR 36 - instructed on appeal to the CoA for the Authority. Homelessness appeal dismissed.
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> Makisi v Birmingham CC [2011] EWCA Civ 355; [2011] HLR 25 - Regulation 8(2): did oral hearing on review involve a face-to-face meeting with the review officer? Junior Counsel for the Authority.
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> Nzamy v Brent LBC [2011] EWCA Civ 283; [2011] HLR 20 - unlawful discharge of main housing duty. Applicant's appeal allowed. Junior counsel for the appellant in the Court of Appeal.

Unlawful eviction

Social housing - possession proceedings

Barking & Dagenham LBC v Bakare [2012] EWCA Civ 750; [2012] HLR 34 - appellant's appeal against a possession order made on nuisance grounds dismissed. Counsel for the Authority.

Southwark LBC v Kofi-Adu [2006] EWCA Civ 281; [2006] HLR 38 - appeal against a possession order on grounds of nuisance dismissed. Counsel for the appellant.

Hackney LBC v McNamara [2014] Central London CC - succession trial. Possession order made. Counsel for the Authority.

Leicester CC v Bulbulia [2014] Leicester CC - claim for possession based on under-occupation. Defended on the grounds of legitimate expectation, non est factum, and equitable assignment. Possession order made. Counsel for the defendant.

Residential long leasehold

Wigmore Homes (UK) Ltd v Spembly Works Residents Association Ltd [2018] UKUT 252

Cleve Court (Ealing) Management Ltd v Link [2016] EWCA Civ 787, Court of Appeal, successfully representing Ms Link at the claimant's renewed application for permission to pursue a second appeal, in relation to its claim for service charges.

Cleve Court (Ealing) Management Ltd v Link [2015] Central London CC, representing the defendant appellant successfully on her appeal against judgment in respect of service charges.

Croydon LBC v Afolayan (2014) LRX/37/2014; LON/00AH/LSC/2013/0339 – service charge dispute brought against Croydon, challenging their various bases of assessment for services in connection with their private leaseholder stock. Appeared (successfully) for Croydon; leaseholder's application for appeal dismissed.

R (Afolayan) v LB Croydon CO/2439/2014, successfully resisting judicial review application brought against Upper Tribunal's refusal of permission to appeal.

M.E. Ball Associates v (1) Abbouzakki Holdings Ltd, (2) Hurford Salvi Carr, (2) Saracen Investments, Central London County Court, (appeal to Circuit Judge) (April 2014) – management audit of service charge accounts and funds, representing the (successful) second and third defendants.

Connaught Court RTM Company Ltd v Abouzakki Holdings Ltd LON/00BK/LRM/2005/001: right to manage application (now on appeal to the Lands Tribunal).

Rita Taylor & Others v LB Southwark, successfully representing leaseholders dispute service charges LON/00BE/LSC/2006/0152.

Norwich CC v Marshall [2008] LRX/114/2007, Lands Tribunal – construction of lease provisions. Counsel for the respondent Authority. Appeal dismissed.

Public law

R (TQ) v Wolverhampton CC CO/6006/15, successfully representing TQ in a challenge the the local authority's Local Offer and provision of autism treatment.

R (Enfield LBC) v Barnet Clinical Commissioning Group [2013] EWHC 3496 junior counsel in a judicial review of the Commissioning Group's decision to close local A&E department.

R (ota McDonagh) v Houslow LBC [2004] EWHC 511 (Admin): challenge to an assessment under s. 17 of the Children Act 1989.

Education

OTHER NOTABLE RECENT CASES

*R (Reform UK Party Ltd) v Secretary of State for Housing, Communities and Local Government*High Court (Administrative Court), Claim No: AC-2026-LON-000195 (2026).

Church Commissioners for England v 222 Quadrangle Towers Ltd – appearing for the defendant – reduced contractual litigation costs in a long leasehold dispute on the basis they were administration charges – November 2023, County Court.

Inquest into the death of Nashon Esbrand – July 2023, appearing for LB Islington in its capacity as the local housing authority. Jury conclusions – unlawful death by fatal stabbing, conclusions against the police of failings with a clear and direct causal connection to Nashon's death.

Islington LB v Shahid Hussain – appearing for Islington in the Magistrates Court and the Crown Court in relation to the prosecution of 17 HMO licensing condition offences, for which the landlord was fined £31,500. His appeal to the Crown Court was dismissed. – June 2023.

Camfield v Uyiekpen – defending a claim for a Rent Repayment Order, which application was dismissed because the tenants did not come up to proof in relation to the "only or principal" home requirement. The tribunal warned against the use of pro-forma evidence. The appeal to the Upper Tribunal was dismissed [2022] UKUT 234

Legal Publications

Author/co-author

Leasehold Valuation Tribunals: A Practical Guide (Sweet and Maxwell 2004)

Housing Law Update – quarterly article for the New Law Journal

Tolerated tresspass – What does this mean for the former Landlord and Tenant [1998] 62 Conv. 39

Protecting the sub-tenant on termination of the headlease [1999] 63 Conv. 232

Regulating Affordable Housing, Lexis Nexis, co-author – forthcoming.

Direct Access

- Yes

Memberships

- Housing Law Practitioners’ Association (HLPA)
- Social Housing Law Association (SHLA)
- Property Bar Association (PBA)
- Administrative Law Association (ALBA)
- Education Law Association (ELAS)

Areas of Expertise

- Administrative Public Law
- Human Rights Equalities
- Homelessness
- Housing
- Local Government
- Property