

## Annette Cafferkey

Year of Call: 1994



### Practice Summary

Annette specialises in landlord & tenant (including residential long leasehold matters and business tenancies), housing, homelessness, local government, property, housing regulation and housing standards, and inquest work. She is instructed by landlords (both private and public), tenants, leaseholders, and other regulatory bodies.

Her career started at the Chancery Bar, but moved on in her early years, to cover a broad range of civil litigation and some crime, before specialising in the areas referred to above. She is recognised as a leading junior both in the Legal 500 and Chambers and Partners, where she has been described as “a tenacious lawyer, who understands the needs of vulnerable clients”, “brilliant even in the most challenging of circumstances”, with “tremendous experience at all levels of court and tribunals”, including the Supreme Court.

Annette joined 4-5 Grays Inn Square in October 2018, after spending 17 years building her practice at Arden Chambers.

Annette’s practice covers the full scope of residential long leasehold work in this area including service and administration charges, forfeiture, dispensation from consultation, Right to Manage (RTM), appointment of managers, Building Safety Act issues, and disrepair.

Much of her work is concerned with residential tenancies, including possession, housing standards, rent repayment orders, tenancy deposits, and unlawful eviction. She works for the full spectrum of clients, private landlord and tenants, applicants, local authorities, and housing associations.

Annette’s practice also extends to commercial landlord and tenant work.

Annette has extensive experience in dealing with all residential housing matters, for tenants, private landlords, local authorities and other public bodies. Those matters include anything from straightforward possession claims, to those based on more complicated grounds, ASB, succession

disputes, and housing fraud.

Annette's includes all housing regulatory matters, including housing standards (HHSRS), HMO licensing and conditions, rent repayment orders, and all other housing offences.

Annette has extensive experience in dealing with housing matters in the public law context, such as homelessness, allocations, alternative routes to housing, and discrimination

Annette's practice in judicial review incorporates a broad area of public law, including homelessness, housing and allocation, closure of local services, provision of local authority services and support, and public law more generally.

Annette's practice has, more recently, extended to inquest work, including Article 2, and jury inquests.

#### 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%.

#### OTHER NOTABLE RECENT CASES

*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

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## Memberships

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