



## Annette Cafferkey

Year of call: 1994

*"A tenacious lawyer, who understands the needs of vulnerable clients"*

Legal 500

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## Practice Summary

Annette specialises in landlord & tenant, housing, residential leasehold matters, local government (public law/judicial review) and education law. She is regularly instructed by landlords (both private & public bodies), tenants, local authorities and parents (in relation to education matters).

Annette started her career in a successful chancery set, and went on to gain experience doing general civil work before specialising in the areas mentioned above. She is recognised by the Legal 500 as "a tenacious lawyer, who understands the needs of vulnerable clients" and "brilliant even in the most challenging cases" with "tremendous experience at all levels of court and tribunals".

Annette joined 4-5 Gray's Inn Square in October 2018, after spending 17 years building a very successful Property and Housing practice at Arden Chambers.

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## Property & Housing

### Residential landlord and tenant

Annette's practice covers the full scope of work in this area including service and administration charges, dispensation from consultation, Right to Manage (RTM), appointment of managers, and housing standards.

### Housing/Regulatory

Annette's practice includes matters concerning housing standards under Part 1, Housing Act 2004, and licensing

under Parts 2 and 3 of the 2004 Act, as well as environmental law.

## **Housing/public law**

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

## **Housing**

Annette has extensive experience in dealing with all residential housing matters, for tenants, families, 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 disrepair.

## **Shorthold tenancy**

Annette has extensive experience in dealing with all matters in this area, including disputes about notices, tenancy deposits and unlawful eviction.

In relation to all of the above, Annette acts for the full spectrum of clients, tenants, applicants, local authorities, housing associations and other public bodies.

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## **FTT (Property Chamber)**

Annette appears regularly in the FTT. The areas of work she has covered in this tribunal includes service charge disputes (for both tenants, landlords (including local authorities) and managing agents, right to manage disputes, enfranchisement, breach of covenant matters and appeals relating to housing standards.

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## **Public & Administrative**

Annette's practice in judicial review incorporates a broad area of public law, including homelessness, housing and allocation, closure of local services, provision of services under Local Offers, education matters, and public law more generally.

Annette's education law practice relates primarily to exclusion and special educational needs matters.

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## **Mediation**

Annette is a qualified mediator, having mediated in mostly in housing disputes.

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## **Memberships**

- Housing Law Practitioners' Association (HLPAs)
  - Social Housing Law Association (SHLA)
  - Property Bar Association (PBA)
  - Administrative Law Association (ALBA)
  - Education Law Association (ELAS)
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## **Noteworthy Cases**

### **Housing Standards**

*Nottingham CC v Parr* [2018] UKSC 51; [2018] All ER 40 - the type of conditions that can be attached to HMO licences, whether a condition can restrict the use of the accommodation to a type of occupier. Junior Counsel for the Authority.

### **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.

*Poshteh v RB Kensington & Chelsea* [2015] EWCA Civ 711; [2015] HLR 36 - instructed on appeal to the CoA for the Authority. Homelessness appeal dismissed.

*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.

*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**

*Smith v Khan* [2018] EWCA Civ 1137; [2018] HLR 18 - succeeded on appeal against lower court's finding of surrender and daily rate of damages. Counsel for the appellant.

### **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**

*Howard v (1) President of SENDIST (2) LB of Enfield* CO/5754/2005: appeal from SENDIST in respect of their dismissal of the application challenging the authorities named school on the SEN statement.

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## **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 trespass – 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.
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