Toby Vanhegan

Year of Call: 1996



Practice Summary

Prior to his call to the Bar in 1996, Toby Vanhegan read Law at Oxford University, and did an LLM at King's College London. He was an Astbury Scholar of the Middle Temple.

Toby practises in the area of public law specialising in housing and homelessness, discrimination, human rights, EU law, community care, immigration and asylum. His knowledge of immigration and asylum law has meant that he has developed an expertise in cases that involve the eligibility of immigrants and asylum seekers for housing and other forms of social assistance.

Toby has experience of all kinds of possession claims, in particular those brought on the grounds of nuisance, anti-social behaviour, succession, and arrears of rent. He also deals with disrepair, injunctions, committal applications, and housing benefit matters. Much of his work concerns Equality Act and human rights issues, and using the European Convention on Human Rights to challenge the lawfulness of excluding certain types of occupiers from security of tenure, for example Crown tenants, occupiers of almshouses and tenants of fully mutual housing co-operatives.

His homelessness work covers eligibility, who is homeless, intentionality, priority need, local connection, out of area placements, suitability of accommodation, contracting out homelessness decision making, restricted cases, private rented sector offers, and issues concerning the suitability and provision of temporary accommodation, and whether a fresh homelessness application must be accepted by the local housing authority. Toby also litigates over the lawfulness of allocation schemes and their applicability in individual cases.

His community care work is wide-ranging and covers, in particular, children and vulnerable adults.

His property practice covers both residential and commercial landlord and tenant work, including lease renewals, boundary disputes, trespass, adverse possession, mortgage repossessions, easements, trusts of land, and charging orders. His asylum work covers a range of countries and he deals with all types of immigration appeals.

Toby has appeared in the Court of Justice of the European Union and represents clients in the European Court of Human Rights. He appears regularly in all sorts of courts and tribunals, including the Supreme Court, the Court of Appeal and the High Court, especially the Administrative Court.

Public Law

Particular expertise in housing and homelessness, discrimination, allocations, human rights, EU law, community care, judicial review and all types of asylum and immigration appeals, especially issues concerning the eligibility of immigrants and asylum seekers for housing and other welfare benefits.

Homelessness

With years of dedication and experience in homelessness law, Toby has risen to become one of the leaders in the field. He has appeared in many of the leading cases in the area, and has thus helped to shape the law. He has also published widely on topics that relate to homelessness law. His practice covers homelessness appeals to the county court, and homelessness judicial reviews in the High Court. He has a particular interest in Equality Act issues in the homelessness context, as well as the lawfulness of contracting out of homelessness decisions by local housing authorities. His immigration knowledge has meant he has particular expertise in eligibility issues. His cases cover the whole range of matters including priority need, intentionality, homelessness and affordability, eligibility, suitability, out of area placements, the new Homelessness Reduction Act provisions, local connection, accommodation pending an original decision, a review and appeal, the refusal to accept applications, Equality Act issues including the public sector equality duty and issues of discrimination in homelessness decision making, the impact of children on outcomes, and contracting out issues. If it involves homelessness law, Toby is always keen to be involved.

He also practises in the area of allocations, in particular where schemes appear to be discriminatory under the Equality Act and/or under the European Convention on Human Rights, and where children give rise to issues under section 11 of the Children Act. He is often invited to speak and lecture on homelessness and allocations law.

Housing

All areas of housing law, especially homelessness, and all types of possession claims, in particular those brought on the grounds of nuisance, antisocial behaviour and arrears of rent, disrepair, succession, injunctions, committal applications and housing benefit issues. A particular emphasis on Equality Act and human rights matters, and using the European Convention on Human Rights to challenge the lawfulness of excluding certain types of occupiers from security of tenure, for example Crown tenants, occupiers of almshouses and tenants of fully mutual housing co-operatives.

Local Government

The powers and duties of local authorities found in statute, secondary legislation and their Constitutions. A particular emphasis on the ability to contract out functions pursuant to the Deregulation and Contracting Out Act 1994, especially homelessness and housing management functions, and the requirements set out in procurement law both domestically in the Public Contracts Regulations 2015 and in EU law under the Public Procurement Directive 2004/18/EC and

in authorities' own Contract Procedure Rules. This work also covers the formal requirements in the Constitution to authorise a contracting out, and whether ultra vires acts of the authority can be cured by the application of the doctrine of ratification.

Community Care / Court of Protection

A wide range of community care work but with a focus on assistance under the Children Act 1989 and the Care Act 2014, including disputes as to which authority is responsible.

Real Property

Residential and commercial landlord and tenant work, including lease renewals, boundary disputes, actions for trespass, adverse possession claims, mortgage repossessions, easements, trusts of land, and charging orders.

Anti-Social Behaviour

Possession claims brought on the basis of antisocial behaviour, injunctions and committal proceedings, and issues of compliance by landlords with their applicable antisocial behaviour policy.

Public Access

Toby accepts instructions directly from organisations, companies and members of the public.

Recommendations

> Band 1 for "Social Housing" in Chambers & Partners, described as, "an excellent advocate and has an excellent command of procedure and submissions", "He is bright and turns around paperwork very quickly. He is willing to go that extra mile", "a talented junior who is highly thought of for his innovative approach", "Toby is a dynamic, courageous and forward-thinking advocate, always a step ahead of the pack. He is reliable, prompt and trusted", "Toby is perhaps the best barrister I instruct", and "Toby is a quick and strong advocate who brings a wealth of experience and understanding of statute and case law."
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> Recommended as a leading junior in Social Housing with "a special interest in the free movement of persons in the EU" by The Legal 500.
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> Recommended as a leading junior in Immigration and Nationality Law by The Legal 500 as specialising "in homelessness cases in the Supreme Court and the Court of Appeal."
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> Highly recommended for Immigration Law in Legal Experts.

Noteworthy Cases

Legal Publications

Author/Co-author

Homelessness and Allocations (8th, 9th,10th and 11th editions), Legal Action Group (with Andrew Arden QC and others).

Housing Volume of Atkins' Court Forms (Butterworths).

Articles

"Disrepair Damages Increased", Journal of Housing Law 2022, Vol.25 Issue 5 page 85.

"Breach of Legitimate Expectation: An Unambiguous Promise", Solicitors Journal Volume 164 No.3, March 2021.

"Did the Court of Appeal kill the PSED?", Discrimination law Association Briefing 952, Vol 71, November 2020.

"Parliament gets a vote on Brexit", Solicitors' Journal 2017, 161(5), 18 (co-author).

"Brexit challenge in the Supreme Court", Solicitors' Journal 2016, 160(47), 19 (co-author).

"Case Study – Proportionality and second succession claims to property (Holley v London Borough of Hillingdon)", LexisNexis, 14 November 2016 (co-author).

"No Brexit without Parliament", Solicitors' Journal 2016, 160(42), 19 (co-author).

"Finger on the trigger", Solicitors' Journal 2016, 160(40), 19 (co-author).

“Five things you really should know about Brexit”, Solicitors’ Journal 2016, 160(31) (co-author).

“The Pryce of Eligibility” – Legal Action, February 2013.

“Eligibility of Parents from Abroad with Children in School in the UK” – Journal of Housing Law 2010, 13(1).

“The Eligibility of Bulgarian and Romanian Nationals for Social Housing” – Journal of Housing Law 2007, 10(3).

“Housing rights of immigrants and asylum seekers” – Legal Action, October 2005.

Lectures/Seminars

Memberships

- Administrative Law Bar Association
- Immigration Law Practitioners’ Association
- Housing and Immigration Group

Legal Publications (Author/Co-Author)

- Homelessness and Allocations (8th, 9th,10th and 11th editions), Legal Action Group (with Andrew Arden QC and others)
- Housing Volume of Atkins’ Court Forms (Butterworths).

Legal Publications (Articles)

- "Disrepair Damages Increased", Journal of Housing Law 2022, Vol.25 Issue 5 page 85.
- “Breach of Legitimate Expectation: An Unambiguous Promise”, Solicitors Journal Volume 164 No.3, March 2021.
- “Did the Court of Appeal kill the PSED?”, Discrimination law Association Briefing 952, Vol 71, November 2020.
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- “Brexit challenge in the Supreme Court“, Solicitors’ Journal 2016, 160(47), 19 (co-author).
- “Case Study – Proportionality and second succession claims to property (Holley v London Borough of Hillingdon)“, LexisNexis, 14 November 2016 (co-author).
- “No Brexit without Parliament”, Solicitors’ Journal 2016, 160(42), 19 (co-author).
- “Finger on the trigger”, Solicitors’ Journal 2016, 160(40), 19 (co-author).
- “Five things you really should know about Brexit”, Solicitors’ Journal 2016, 160(31) (co-author).
- “The Pryce of Eligibility” – Legal Action, February 2013.
- “Eligibility of Parents from Abroad with Children in School in the UK” – Journal of Housing Law 2010, 13(1).

- “The Eligibility of Bulgarian and Romanian Nationals for Social Housing” – Journal of Housing Law 2007, 10(3).
- “Housing rights of immigrants and asylum seekers” – Legal Action, October 2005.

Lectures/Seminars

- Toby has lectured at the University of Oxford, the University of Bristol, City University, at the HLPA Annual Conference and at a HLPA advanced training seminar for the Chartered Institute of Housing, at the Legal Action Housing Conference, and at Arden Chambers Conference and Seminars.

Areas of Expertise

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