



# Kevin Gannon

YEAR OF CALL: 1993



Kevin practises in all areas of housing law, with special interest in homelessness and possession. In homelessness, he is experienced in dealing with all aspects including priority need, intentionality and suitability. He has a particular interest in housing cases that involve public law or human rights issues.

Kevin's practice also covers social security law and he has expertise in cases involving Housing Benefit and Universal Credit.

Kevin sits part-time as a social security judge in the first-tier tribunal.

Kevin co-writes the Housing Benefit Law Update in the Legal Action journal. He also contributed to the *Housing Law Handbook: A Practical Guide* (The Law Society, 2020) along with other members of the team.

"Kevin Gannon has always proven himself to be knowledgeable and extremely helpful."

CHAMBERS UK, 2024

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"Kevin is a very experienced housing barrister and a knowledgeable, clever lawyer. He is helpful and clear."

CHAMBERS UK, 2023

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"Kevin is unrivalled amongst all the barristers I have used for knowledge, skill, and immense poise in his advocacy. He has the ability to take the court with him when making complex, multivalent arguments, by virtue of his calm and sophisticated communication talents."

LEGAL 500, 2022 (SOCIAL HOUSING)

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"Kevin is a first-class advocate. He is incredibly calm, practical and focused on his work."

CHAMBERS UK, 2021 (SOCIAL HOUSING)

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"A pleasure to work with; he provides quick, reliable and no-nonsense advice. A complete housing lawyer."

CHAMBERS UK, 2020

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"He is completely committed to social justice and the defence of housing rights. He's reliable, efficient and someone who earns the respect of everyone around him."

CHAMBERS UK, 2019

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If you would like to get in touch with Kevin please contact the clerking team:

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## HOUSING LAW

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Kevin practises in housing law, specialising in homelessness, possession, disrepair, illegal eviction and nuisance. In homelessness, he is experienced in dealing with cases involving eligibility, priority need, intentionality and suitability. He has a particular interest in housing cases that involve public law issues and human rights arguments.

Kevin also has experience in housing cases with community care or immigration law aspects. He sits part time as a social security tribunal judge and has particular expertise in cases involving social security law including Housing Benefit and Universal Credit.

Kevin co-writes the Housing Benefit Law Update in the Legal Action journal.

### NOTABLE CASES

#### ***DH v Cambridge City Council County Court at Cambridge, 6.1.2022.***

Homeless appeal under s204 Housing Act 1996. Issue: suitability. In this case, the client had taken over the care of his two children from his partner from whom he had separated some years previously. Social services had been involved. The council offered accommodation in a different borough from that which the children had moved to. This involved a possible transfer of social services responsibility. The appeal involved an examination of whether the council had obtained adequate information about the potential effect of these problems and whether the council had based their decision properly on the information that was available. The appeal was successful.

#### ***Emin-Prentice v LB Redbridge County Court. Mayor's and City of London, 3.12.2021.***

Homeless appeal under s204 Housing Act 1996. Issue: suitability. Client with complex medical problems requiring a high level of heating in the property and mobility problems. The council offered accommodation with electric storage heaters and maintained that this was suitable. The case required a careful analysis of the medical evidence relating to the client's medical conditions and the council's reasoning in relation to the adequacy of the heating provision. The appeal was successful.

#### ***Kiarie v LB Redbridge, County Court at Central London, 12.7.2021.***

Application for a mandatory injunction within a homeless appeal, requiring the local authority to provide accommodation until the appeal had been heard and decided. The issues raised included the basis on which the court could make a mandatory injunction in public law proceedings. The medical evidence had developed

over time and led to a series of decisions by the local authority refusing accommodation. Injunction granted.

***Safia Sheikh Abdi v LB Waltham Forest. The County Court at Central London, 29.6.2020.***

Homeless appeal under s204 Housing Act 1996. The case dealt with whether the Court of Appeal decision in *Waltham Forest LBC v Saleh* ([2019] EWCA Civ 1944) still applied despite changes to the Code of Guidance brought in after that decision. The court decided it did. The court also dealt with other arguments including whether a challenge to the adequacy of a local authority's policy for procuring accommodation could be pursued in an appeal under s204.

***Jamila Chaudary v Paul Scougal The County Court at Clerkenwell & Shoreditch, 11.3.2020.***

Possession trial relating to the validity of a notice under section 21 Housing Act 1988, which depended upon compliance with gas safety certificate requirements. There was contested evidence as to the provision of a gas safety certificate and there was extensive cross-examination of the landlord as to the general standard of her paperwork and record keeping. The court rejected the landlord's case and dismissed her claim for possession.

***John Grants Estates Ltd v Noemi Molnar. The County Court at Clerkenwell & Shoreditch, 17.1.2020.***

At the trial, the issue was one of agency, i.e. whether the claimant, John Grant Estates was the true landlord or merely the agent. This involved a potentially complex legal point and the inferences to be drawn from the evidence as to the position of the claimant. Careful and detailed submissions were made on the evidence. The court rejected the claimant's assertion that they were the landlord and dismissed the possession claim.

***Paul Clark v LB Redbridge; Mayor's & City of London County Court, 11.1.2019 (Judgment 23.5.2019).***

Homelessness appeal under s204 Housing Act 1996. The issue was intentional homelessness. Client was very severely addicted to alcohol. When under the influence, he committed acts of anti-social behaviour and as a result his landlord evicted him. The issue on the appeal was whether it could be said his acts were 'deliberate'. Little authority on the point. High-level consideration of what it means to carry out acts deliberately.

***Sally Dempsey v LB Waltham Forest. First-tier tribunal of the Social Entitlement Chamber 2018.***

A significant case involving the decision that the client had been overpaid £15,000 in Housing Benefit and that she was liable to repay it. The issue behind the case was whether the client and her husband had entered into tenancy agreements with a tenant that was not on a 'commercial basis'. There is no clear test for that and responding to the appeal required a detailed examination of the facts and previous case law on the issue in the

social security context. Detailed written submissions prepared for the client to provide to the tribunal. She was successful in her appeal.

***Thurrock Council v Ra Scamp, Chelmsford county court, 11.7.2018.***

Appeal against a district judge's order of possession. The appeal was based on public law arguments - i.e. that the council's decision-making had been flawed and unlawful and a possession order obtained as a result of such a decision should not stand. The argument was based on the council's duty under s11(2) Children Act 2004 and succeeded. The possession order was quashed. Court of Appeal authority suggested this type of argument could fail so necessary to distinguish Ms Scamp's case from those.

***Raufi v LB Islington. The County Court at Central London, 22.5.2018.***

Homeless appeal. Issue: vulnerability. Application of test for vulnerability post-Panayiotou. Local authority asserts compliance with Panayiotou but review decision successfully challenged. Variation ordered to a decision that client is in priority need.

***Smith v Basildon District Council. The County Court at Chelmsford, 7.7.2017***

Homeless appeal. Issue: suitability. Appellant's child with behaviour problems who needed a separate bedroom from his sibling. Council said two bedrooms sufficient. Points of law taken as to council's approach to decision and duty under the Children Act 2004 to have regard to welfare of both children. Appeal allowed, the judge holding that the council's approach had concentrated on medical evidence; welfare considerations were wider.

***LB Newham v Berhane. The County Court at Clerkenwell & Shoreditch, 14.12.2016.***

D had succeeded to his mother's tenancy after her death. The council sought possession on the basis that the property was larger than D required and it had offered him other accommodations. D maintained it was not reasonable to order possession of his current home because of his longstanding connection with it. The judge found in favour of D. D was relatively young at the date of trial (late 20s).

Noted in March 2017 Legal Action at p 39.

***South Anglia HA v Featherstone, Central London County Court, 20.10.2014.***

Possession claim defended on public law grounds. Challenge to the HA's operation of its discretionary succession policy. 1 ½ day trial. Cross examination of HA witness and submissions emphasised public law failings. Possession claim dismissed based on the public law arguments.

***Forsythe-Young v Redbridge LBC, Central London County Court, 26.10.2015. Homelessness appeal.***

Early example of a post-Nzolameso appeal, concerning out of borough placement and application of s11 Children Act 2004. Distance involved was not as far as in Nzolameso and child involved was young. Analysis of the local authority's decision making regarding its purported compliance with the duty in s11(2). The local authority's decision was quashed. The case also involved a decision by the judge to extend time for the appeal which was lodged late, after a full consideration of relevant case law.

***Hounslow LBC v Powell* Supreme Court [2011] UKSC 8; [2011] 2 AC 186**

One of the leading cases on the effect of article 8 Human Rights Act 1998 on possession claims. Led by Jan Luba QC in the Court of Appeal and Supreme Court.

***Hashemi v Gladehurst Properties Ltd* Court of Appeal [2011] EWCA Civ 604; [2011] HLR 36**

Operation of tenancy deposit protection provisions in Housing Act 2004, including whether applicant for payments under s214 had to be a tenant at the time of the application. Led to subsequent statutory amendment.

***R(Cali and others) v Waltham Forest LBC* Administrative Court [2006] EWHC 302 (Admin); [2007] HLR 1**

Judicial review of lawfulness of Waltham Forest's choice-based letting allocation scheme. Very high threshold for highest priority group leaving bulk of applicants' priority dependent on waiting time only. As a result, proper cumulative assessment of need was not possible. Court declared the scheme to be unlawful.

## **BACKGROUND**

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Kevin sits as a part-time social security tribunal judge. Before coming to the Bar, he worked for several years in the advice sector as a welfare rights advisor and tribunal representative.

## **PROFESSIONAL MEMBERSHIP**

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**Housing Law Practitioners' Association (HLPA): Executive Committee member**

If you would like to get in touch with Kevin please contact the clerking team:

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