

About the speaker

Amy Stroud (2004)

Amy acts for landlords and tenants alike across the spectrum of housing work, appearing in the First Tier-Tribunal, county courts and High Court.

Her practice encompasses a broad range of housing and real property matters and also licensing disputes.



S.81 ASBCP 2014 – who can challenge a closure order

- An occupier of the premises;
- Anyone with control or responsibility for the premises;
- Anyone else with an interest in the premises.

The court's powers of adjournment – s.81(3)

- ❑ Maximum of 14 days
- ❑ Exceptional circumstances: *A magistrates' court may at any time, whether before or after beginning to hear a complaint, adjourn the hearing, and may do so, notwithstanding anything in this Act, when composed of a single justice – s.54, Magistrates' Court Act 1980*
- ❑ Commissioner of the Police of the Metropolis v Hooper [2005] 1 WLR 1995
- ❑ Turner v Highbury Magistrates Court [2005] EWHC 2568

Turner v Highbury Magistrates Court [2005] EWHC 2568

Although exceptional circumstances will often be rare ones, the primary meaning of exceptional is not 'rare' or 'infrequent', and I have no doubt that Mitting's phrase 'exceptional circumstances' encompasses, and should be taken to encompass, circumstances, whether frequent or infrequent, that are so compelling as to make a clear exception to the general section 2(6) rule, that is, literally, to take them outside its ambit (para 35)

Appealing a closure order – s.84

- A person on whom a closure notice is served under s.79;
- A person who has an interest in the closed premises but who was not served with a closure notice

Time limits for an appeal

- 21 days
- Crocker v Devon & Cornwall Police [2020] EWHC 2838
(Admin)
 - Extension under r.7.5 *Crown Court Rules 1982*
 - Pomiechowski v Poland [2012] UKSC 20

Extending a closure order – s.82

On reasonable grounds to prevent any of the following occurring, recurring or continuing:

- Disorderly, offensive or criminal behaviour on the premises;
- Serious nuisance to members of the public resulting from use of the premises; or
- Disorder near those premises associated with the use of those premises.

Discharging a closure order (s.83) – who can apply?

- The local authority (provided it was the original applicant);
- A constable – where the closure order was made on the application of a constable;
- Any person served with a closure notice pursuant to s.79
- Anyone else who has an interest in the premises but on whom the closure notice was not served.

Criteria for discharge

No longer necessary to prevent any of the following continuing, occurring or recurring:

- Disorderly, offensive or criminal behaviour on the premises;
- Serious nuisance to members of the public resulting from use of the premises; or
- Disorder near those premises associated with the use of those premises.

Costs liability of the Applicant

Presumption of no order for costs – public authorities must not be disincentivised to make decisions in the public interest:
R (Perinpanathan v City of Westminster [2010] EWCA Civ 40.

Compensation – s.90

Application must be made within 3 months of the latest of:

- The day on which the closure notice was cancelled (s.78);
- The day the court decides not to make a closure order;
- The day the Crown Court dismisses an appeal against a decision not to make a closure order;
- The day the closure order ceases to have effect.

Criteria for compensation

- The claimant is not associated with the use of the property or the behaviour that occurred on the property which led to the issue of the closure notice or the closure order being made;
- If the claimant is the owner/occupier, the claimant took reasonable steps to prevent that use or behaviour;
- The claimant has suffered financial loss as a result of the closure notice or order; and
- Having regard to all the circumstances, it is appropriate to award compensation.

Offences and exemption from liability

Offences

S. 86 – Remaining or entering on premises in contravention of a closure notice or closure order.

Obstructing anyone serving a closure notice or enforcing a closure order pursuant to s.85

Exemption from liability

The applicant is exempted from liability whether in JR or tort proceedings – s.89.

Consequences for those with an interest in the premises

- Impact on the tenant-landlord relationship
- Grounds for possession (mandatory ground 7A, s.84A Housing Act 1985)
 - See Southend-on-Sea BC v Armour [2014] HLR 23
 - Goode v Paradigm Housing (October 2015, unreported)
- Impact on the property and its neighbourhood
- Maintenance issues

Pre-emptive action



Any questions?

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