

## Mathew McDermott

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Mathew is a through-and-through landlord and tenant specialist.

In simple terms, if the matter is of relevance to either a landlord or a tenant, in whatever guise they appear -- residential or commercial -- or whatever Court or Tribunal in which they find themselves, Mathew will be able to assist.

Above everything Mathew gives direct, concise, no-nonsense and honest advice that cuts through the irrelevancies and focuses solely on what matters to the client. One solicitor has said that “Mathew has the knack of still seeing the wood despite there being many trees in the way”

## Landlord & Tenant

Mathew’s specialist practice focuses exclusively on all matters relating to and concerning landlords and tenants, whether the setting is residential or commercial.

His commercial work includes renewals and terminations under the Landlord and Tenant Act 1954, dilapidations and repairs, forfeiture, relief, breach of covenants, break clause and service charge disputes.

His residential work is equally broad with a particular focus on licensing and regulation -- HMO licenses, appeals, and rent repayment orders – as well as Right to Manage matters and the broad spectrum of leasehold work at the First-tier Tribunal (Property Chamber) and Upper Tribunal, including extensions, lease variations, enfranchisement and service charge disputes.

His clients range from local authorities to large and small businesses and property developers through to individuals.

## Reported Cases

*Kowalek v Hassanein Ltd [2022] EWCA Civ 1041* - Mathew, leading Robert Winspear, successfully represented the respondent landlord in one of the first cases concerning rent repayment orders for breach of licensing offences relating to residential accommodation to reach the Court of Appeal.

Mathew represented the landlord at first instance, on appeal to the Upper Tribunal and on this second appeal to the Court of Appeal where the Court dismissed the tenants' appeal because:

- The maximum amount of a rent repayment order cannot include rent which was paid (rather than accrued) at a time when the licensing offence was not being committed
- The tenant's rent arrears may be taken into account, when determining the amount of a Rent Repayment Order

*Francia Properties Limited v St James House Freehold Limited [2018] UKUT 79 (LC)* - Mathew represented the company formed by the leaseholders to purchase the freehold, both at first instance and on this appeal (where the Upper Tribunal heard the matter afresh). The dispute concerned the chances of a purchaser obtaining, and the value arising therefrom, planning permission in respect of the top of the block in question, along with what (if anything) could then be built. The freeholder argued for a total premium in excess of £2m. The case concerned the "reasonably prudent purchaser" and what that person would have paid for the premium as at the Determination Date, considering planning permission may have been a prospect but not a guarantee.

*Anwar v Waltham Forest LBC [2018] EWHC 294 (Admin)* - Mathew successfully represented the Respondent authority in this High Court appeal against a decision of the Valuation Tribunal, finding that the Appellant was liable for council tax. The Appellant argued that the authority had changed locks on the Appellant's property, which was let out by the Appellant to a number of tenants with a HMO in place, and so she ought not be responsible for the council tax as she herself could not access the property. The High Court rejected this and the appeal was dismissed.

## Publications

### Calculating the amount of Rent Repayment Orders

Landlord and Tenant Review - you can read the full article [here](#).

### Into the Unknown

New Law Journal - read the full article [here](#).

### Re-Thinking Your Section 21 Notes

CPDcast - In this podcast I discuss the Court of Appeal case of *Spencer v. Taylor* [2013] EWCA Civ 1600, establishing that the requirements of section 21 notices under the Housing Act 1988 are not as onerous as most had believed. Listen [here](#).

### What is a tenancy deposit?

CPSCast - A discussion of the development of tenancy deposit litigation, with a particular emphasis on *Johnson v. Old* [2013] EWCA Civ 415. Listen [here](#).

### Guaranteed Chaos - Tenancy Deposit Disputes

New Law Journal - read full article [here](#).

### Dispelling the Section 21 Myths

New Law Journal - read the full article [here](#).

## Housing Law

Mathew is a highly experienced and specialist housing and public law barrister with over 10 years of experience.

Not only is this an area in which he now specialises, but he also worked for a specialist housing law firm prior to becoming a barrister. He cut his teeth with this busy firm, including working on a very busy court duty scheme.

He is therefore highly experienced in any housing or associated public law matter: homelessness, allocations, discrimination, sub-letting, possession, judicial review, human rights, nuisance and disrepair and more.

## Reported Cases

*R (on the Application of YR) v Lambeth LBC [2022] EWHC 2813 (Admin)* - Mathew represented the Defendant authority in this 2-day judicial review brought by an applicant seeking housing assistance under Part VII Housing Act 1996. The claim involved, amongst other things, (i) the extent of the duty to carry out an assessment of an applicant's needs and those of the household under s.189A(2) and (ii) how that assessment and the personal plan informs the suitability of accommodation that is offered, including interim accommodation under s.188(1) Housing Act 1996.

*Allen v Ealing LBC [2021] EWHC 948 (Admin)* - Mathew was instructed on this High Court appeal on behalf of the local authority in respect of a private prosecution alleging the presence of a statutory nuisance in a residential dwelling. The appeal concerned the means by which certain statutory notices can be served upon corporate entities in accordance with the Environmental Protection Act 1990.

*R. (on the application of Tiemo) v Lambeth LBC [2020] EWHC 1193 (Admin)* - Mathew was instructed for the respondent authority in this judicial review challenging the suitability of accommodation provided pursuant to s.188 Housing Act 1996.

*R (on the application of Laryea) v. Ealing LBC [2019] EWHC 3598 (Admin)* - Mathew successfully represented the applicant in these judicial review proceedings wherein it was found that the authority had not properly considered all relevant factors when refusing to exercise a power to provide housing pending a review under s.202 Housing Act 1996. The case was one of the first reported cases to deal with issues relating to the 'relief duty' that had been recently introduced as s.189B Housing Act 1996.

*R (on the application of Osman) v Harrow LBC [2017] EWHC 274 (Admin)* - Mathew successfully resisted the claim for judicial review relating to an amendment to a local housing authority's allocation scheme that was said to be unlawful and in breach of Article 14 ECHR. Mathew succeeded in arguing that the change to the scheme, which saw a reduction in the priority given to those in overcrowded private accommodation in comparison to secure tenants in similar conditions, was a proportionate and justified amendment implemented to reflect pressures facing the Borough.

Recent advisory work includes advising a large City Council on their likely housing duties towards Afghan refugees resettled in the U.K who fled Afghanistan prior to the Taliban retaking control.

## Publications

## Home Help?

[Kazi v. Bradford MDC \[2023\] UKUT 128 \(LC\), Appeals against the imposition of financial penalties under s.249A Housing Act 2004.](#)

Adviser - Comments on the prevention and reduction of homelessness through the Homelessness Reduction Act 2017 and amendments to the Housing Act 1996. Explains the local authority's duties under the new legislation including when the prevention duty ends and what happens if an applicant refuses to co-operate.

## Direct Access

Mathew is authorised to accept instructions direct from members of the public. He encourages clients who are considering this route to contact Chambers and discuss their problem.

In suitable cases, Mathew can provide client conferences, written advices and representation at court. Mathew accepts direct access work in all areas relating to landlord and tenant disputes, residential or commercial.