



Public Sector Legal News Update

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22 February 2013

Cases

Licensing

Aksu v Enfield LBC. 2013 WL 552262 Queen's Bench Division (Administrative Court) (QBD (Admin))
Edwards-Stuart, J. 17 January 2013

The Home Office guidance issued under the Licensing Act 2003 s.182 in October 2010 at para.3.18 was incorrect in its first sentence, as the imposition of a charge for profit was wholly absent, and that was the first condition to be satisfied for the provision of regulated entertainment by Sch.1 para.1 of the Act. The sentence would be correct if it read "where there is a charge for the admission intended to make a profit" rather than "no charge for admission..."

Appeal dismissed.

Education

R. (on the application of Kebede) v Newcastle City Council. 2013 WL 552240. Queen's Bench Division (Administrative Court) (QBD (Admin))
Timothy Straker QC. 15 February 2013

Local authorities had a duty rather than a discretion under the Children Act 1989 s.24(B)(2) and s.23C(4)(b) to give a former relevant child assistance to the extent that his educational needs required it, and that might include the payment of university tuition fees.

Application granted.

Legislation

Local Government

The Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013 (SI 2013/215)
The Stationery Office

These Regulations make provision for transitional arrangements for the new localised council tax support schemes which come into effect, replacing council tax benefit, on April 1, 2013.

[Read the full text here](#)

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In Force: 6 March 2013

Made under: Local Government Finance Act 1992 Sch.1A para.9

Further Reading

Charities

No such thing as a (VAT) free lunch

Tax J. 2013, 1157, 6

By Graham Elliott

Considers the First-tier Tribunal decision in *Groundwork Cheshire v Revenue and Customs Commissioners* on potential VAT liability if a charity provides free services to beneficiaries, and a third party pays for the services by way of a subsidy rather than a grant. Discusses the difference between funding by subsidy and by grant.

Cases referred: *Groundwork Cheshire v Revenue and Customs Commissioners*~ [2012] UKFTT 750 (TC) (FTT (Tax))

Planning

"A sledge hammer to crack a small nut": an analysis of section 124 of the Localism Act 2011

Conv. 2013, 1, 48-60

By Emma Hatfield

Reflects on the potentially harmful effects of the Localism Act 2011 s.124, which permits planning enforcement action to be taken outside the normal time limits where breaches of planning control involving concealment may have occurred. Reviews the cases which led to the introduction of s.124 and discusses the problems arising from: (1) its imprecise definitions of concepts such as "deliberate concealment"; (2) its reduction of certainty through the removal of clear limitation periods; and (3) its requirement that enforcement applications are made to magistrates courts.

Cases referred: *R. (on the application of Fidler) v Secretary of State for Communities and Local Government*~ [2011] EWCA Civ 1159 (CA (Civ Div)); *Welwyn Hatfield Council v Secretary of State for Communities and Local Government*~ [2011] UKSC 15 (SC)

Legislation referred: Localism Act 2011 s.124