

Groundless threats of legal action by landlord held to constitute harassment of tenants (*Worthington v Metropolitan Housing Trust Ltd*)

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Local Government analysis: The Court of Appeal has dismissed an appeal by a housing association against a finding of the County Court that it unlawfully harassed two of its tenants, in breach of section 1 of the Protection from Harassment Act 1997 (PHA 1997). Over a period of up to eight months, the Association had sent letters to two long-standing assured tenants of the Association threatening legal proceedings (an injunction application and/or possession proceedings) without proper basis. Such a course of conduct was found to cross the boundary so as to be oppressive and unacceptable, and to amount to harassment under PHA 1997. Written by Adam Heppinstall, barrister at Henderson Chambers.

Worthington and another v Metropolitan Housing Trust Ltd [\[2018\] EWCA Civ 1125](#)

What are the practical implications of this case?

This is the first judgment which applies the statutory tort of statutory harassment under [PHA 1997](#) to threats made by landlords to their tenants.

The Court of Appeal upheld a finding of harassment where the landlord housing association had sent letters to two tenants containing groundless threats of legal proceedings over several months. As such, the case sets a precedent for further claims of harassment against landlords who threaten tenants with, among other things, possession proceedings without proper basis. Although the finding of harassment was dependent on the facts of the case—which included that the tenants were long-term assured tenants, that they were wrongly accused of taking inappropriate images of children, and that there was no evidence that they were in breach of their tenancy agreements—the case is likely to deter landlords from relying on the threat of possession proceedings in correspondence with tenants if such a threat is not strictly justified. The case is also notable for the importance it places upon proper investigations by landlord housing associations into complaints raised by residents—whilst complaints are relevant to an association’s conduct, they should be investigated before being acted upon.

The judgment may make a claim under the [PHA 1997](#) a more attractive option to tenants contending with troublesome landlords.

What was the background?

The two claimant tenants had been assured tenants of the Association for a number of years. Due to concerns about antisocial behaviour in the area, Ms Parkin, with the Association’s permission, installed CCTV cameras at her home for the purposes of her security and Mr Worthington formed a residents’ group for which he set up a website on which he collated evidence of allegedly unacceptable behaviour.

The Association received complaints from other residents, claiming that residents’ privacy had been invaded and that inappropriate photographs were being taken of children and young people by Ms Parkins and Mr Worthington. After several months of correspondence and meetings between Ms Parkins, Mr Worthington (the tenants) and the Association, in which the tenants made clear that legitimate safety concerns were the reason for the surveillance, the Association sent the tenants letters accusing them of breaches of their tenancy agreements and threatening legal proceedings.

The Association had failed to examine the facts objectively or undertake the basic investigations recommended by their own internal advisors such as arranging to see the CCTV footage complained about. The first instance judge found that there was no factual basis for the threat of making an injunction application or bringing possession proceedings.

Furthermore, no proceedings were ever commenced. Ms Parkin and Mr Worthington were only informed that legal proceedings would not be brought eight months later and four months later respectively.

The first instance judge found that the making of sustained threats, which involved the risk of the claimants losing their homes, was oppressive and unacceptable and amounted to harassment under the [PHA 1997](#).

What did the court decide?

The Court of Appeal (leading judgement given by Kitchin LJ with whom Rose J agreed) dismissed the appeal.

The defendant housing association based its appeal on a number of grounds, including that the first instance judge:

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- had failed to identify the specific items of correspondence which constituted the harassment
- had failed to take into account relevant matters or to properly analyse the critical letters individually and as a whole

As to the first point, the appeal was dismissed on the basis that only the course of conduct is required to have the character of harassment (following *Iqbal v Dean Manson Solicitors* [2011] EWCA Civ 123, and that the judge had in fact made clear the items of correspondence.

As to the second point, the Court of Appeal noted in particular that the threatened proceedings would have caused the claimants, as long-term tenants of the Association, particular anxiety, that the Association was well aware of their concerns about antisocial behaviour, that the letters contained no proper basis and were bound to cause anxiety and distress, and that it was not until several months later that the claimants were informed that legal proceedings would not be brought.

As to the critical letters, Kitchin LJ concluded at [80]:

'a reasonable person would think that the Association's actions would cause alarm and distress to Mr Worthington and Ms Parkin. I reject the submission that the letters in issue were unexceptional... Mr Worthington and Ms Parkin were threatened with possession proceedings and accused of anti-social behaviour and taking inappropriate images of children...'

Case details

- Court: Court of Appeal (Civil Division)
- Judge: Kitchin LJ and Rose J
- Date of judgment: 17 May 2018

[Adam Heppinstall](#) is a barrister at Henderson Chambers, and a member of LexisPSL's Case Analysis Expert Panel. Suitable candidates are welcome to apply to become members of the panel. Please contact caseanalysis@lexisnexis.co.uk.

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