+44 (0)20 7815 3200
fivepaper.com
5 Paper Buildings, Temple, London, EC4Y 7HB

Nicholas Grundy KC



Called: 1993
nicholasgrundy@fivepaper.com

"Nicholas Grundy is universally excellent. His client skills are second to none. Nicholas exudes confidence and is loved by clients and solicitors alike."

"Nicholas Grundy continues to be the leading light for social housing litigation. He remains our go-to for complex and high-profile matters due to his unparalleled reputation with our clients."

"Nicholas Grundy provides an excellent service, has a quick turnaround of work, deploys highly innovative approaches and is available to discuss case plans."

"I have instructed Nicholas on more complex issues. He is technical, highly intelligent and experienced. He fills you with confidence when you deal with him."

Chambers & Partners 2027

PROFILE

Nick is a Property, Public Law, Equality and Human Rights specialist. Nick has particular expertise in statutory interpretation. Nick is head of Five Paper's Real Property Practice Group and a member of the Housing, Landlord and Tenant and Public Law Groups.

He regularly acts for public bodies in cases where property and public law interact: e.g. *Simawi v LB Haringey & SoS CLG (intervening)* [2019] EWCA Civ 1770, where he successfully argued that the rules relating to succession to council tenancies were compatible with the European Convention on Human Rights.

He also acts for commercial entities: e.g. he was successful in the Court of Appeal for Global 100 Limited in establishing, amongst other things, that defences to possession proceedings should, where appropriate, be determined summarily: See *Global 100 Limited v Laleva* [2021] EWCA Civ 1835.

Nick is recommended as a leading silk in the latest editions of Chambers UK and Legal 500. Nick has been shortlisted for Property and Housing Silk of the year in the Legal 500 Bar Awards 2024.

Nick's approach
Nick believes that as a Silk it is his role to provide effective leadership and identify the goals in achieving the best outcome for the client. Nick's team skills were developed rowing for Cambridge in the 1987 and 1988

Boat Races; he was described by the renowned Oxford Coach, Dan Topolski as “the hardest man in either crew”. Nick has developed good leadership skills: He was Head of Chambers between 2010 and 2018. He resigned after he had achieved the reform of Chambers he regarded as essential, considering it healthy for someone else to have an opportunity to influence the direction of Five Paper.

EXPERTISE

Real Property

Nick developed his Real Property practice through acting on behalf public and hybrid public bodies; e.g. Local Housing Authorities and the NHS, Housing Associations. Nick was recently instructed by the commercial arm of a public body to advise on the regularisation of occupation of its substantial property estate where arrears exceed £550 million.

Nick now frequently acts for commercial entities and is also currently instructed by a number of development companies in relation to easements and restrictive covenants affecting development plots and in respect of overage agreements.

Nick’s Property Litigation practice is extremely broad, but he has particular expertise in relation to cases where a domestic law property issue intersects with equality and/or human rights principles; e.g., ***Akerman-Livingstone v Aster Communities Ltd*** [2015] UKSC 15, the leading case on the test to be applied to discrimination defences and ***Aldwyck HA v Forward*** [2019] EWCA Civ 1334, the leading case on the proper approach to Public Sector Equality Duty defences to possession claims.

Nick has particular skill in interpretation of statutory provisions relating to land: e.g., ***Toms v Ruberry*** [2019] EWCA Civ 128, concerning the Law of Property Act 1925, section 146; ***Gateway HA v (1) PRs of Ali (deceased) & (2) Begum*** [2020] EWCA Civ 1339 and ***Global 100 Ltd. v Laleva*** [2021] EWCA Civ 1835, interpretation of CPR Part 55, claims to possession of land.

Since he was appointed Silk in 2016 Nick has been involved in the following significant real property cases:

2023

- **LB Y v Developer** (ongoing) – Nick is instructed by a London local authority in relation to the recovery by it of overage under a development agreement. The developer claims that no overage is payable and that prices for the flats in the development contained in a schedule that passed between it and a housing association purchaser are the ‘agreed’ prices of the flats notwithstanding that that those process do not distinguish between the value of private sale flats and those earmarked for social housing. Nick has advised on the prospect of a claim to imply a term of good faith into the development agreement.
- **Global Guardians & Ors. v (1) LB Hounslow, (2) Laleva and Ors** (2022) – Nick is acting for the Appellant with Sean Pettit. This case is listed in the Court of Appeal on a 2nd Appeal from the UT. It concerns Rent Repayment Orders and Financial Penalty Notices issued against the appellants for operating an unlicensed HMO.

2022

- **Re Public Body Estate** – Nick advised a major public body that holds a substantial property estate on draft terms of occupation that the body intends to grant to associated bodies and to third parties to occupy parts of the estate vested in the public body to rationalise such occupation.

2021

- **Global 100 Limited v Laleva** [2021] EWCA Civ 1835 – Nick represented Global 100 Ltd ("G100"), throughout these proceedings. He led Sean Pettit in the Court of Appeal. Whilst this case is relevant to landlord and tenant cases it also had real property aspects. Mark Wonnacott QC argued on behalf of Ms Laleva that because G100 itself only had a licence of the premises of which it sought possession from her it was not, applying the common-law, entitled to a possession order. Nick argued that as Ms Laleva had been granted a licence by G100 she was estopped from disputing that G100's interest was sufficient to obtain possession as against her. Nick also argued that a mere licensee was entitled to a possession order. The Court of Appeal agreed with Nick that Ms Laleva was estopped from denying G100's right to possession. The Court also stated that the argument that a mere licensee is not entitled to possession is one that faces the difficulty of a series of previously decided appellate cases.
- **Development Co. v HA** (2021) – Nick advised a Housing Association in response to a letter before claim issued by a development company alleging a proprietary estoppel. The Development Co. alleges that the HA had agreed to grant it a right of way over a land locked development site.

2020

- **Gateway HA v (1) The PRs of Ali & (2) Begum** [2020] EWCA Civ 1339. This case concerned the requirements of service of notices relating to land under the Law of Property (Misc. Provisions) Act 1994, section 18, where the recipient of the notice has died. The Court of Appeal adopted Nick's interpretation of the relevant statutory provisions and, in effect, overturned the influential decision of HHJ Luba QC in Hackney v Pavey (2017) (unreported). The ratio of this case applies to all notices affecting land to be served where the recipient has died, including all notices served in a landlord and tenant context.
- **LB X** – Opinion (2020) – Nick advised on whether a Local Planning Authority can use the Housing and Planning Act 2016, section 203, to remove third party rights over land that it already held in its Housing Revenue Account where the Council intended to develop the land for housing purposes.
- **Various tenants v Metropolitan BC X** (2020) (ongoing) – Nick is acting for a Metropolitan Council and its Housing Association agents in relation to claims threated by tenants of flats arising from faulty cladding being fixed to high rise blocks by a PFI vehicle Company.

2019

- **Toms v Ruberry** [2019] EWCA Civ 128 – Nick, leading Simon Lane (Pump Court Chambers) instructed by Nalders acted for Ms Ruberry, the tenant of The Queens Arm Public House, Falmouth. Ms Ruberry's landlord, Mr Toms, served a notice pursuant to the Law of Property Act 1925, section 146 Notice, after Ms Ruberry had breached her Lease but before the contractual right of re-entry had arisen. The Court of Appeal accepted Nick's interpretation of section 146: i.e., that the contractual right of re-entry has to have arisen before the landlord can serve such a notice

2018 and earlier

- **Mr and Mrs Howie v LB Hillingdon** (2018) High Court Claim – Nick represented the LB Hillingdon on this claim by Mr and Mrs Howie alleging that they had been induced to enter into a Farm Business Tenancy of Park Farm by misrepresentation. The case concerned the extent of the parties' knowledge that part of Park Farm was contaminated land as a result of its use by the GLC as a landfill site. The case settled on the basis that Mr and Mr Howie would pay the Council a proportion of the compensation that they would receive from HS2 Ltd; the high-speed rail link passes through Park Farm.
- **LB Haringey v (1) Ahmed & (2) Ahmed** [2017] EWCA Civ 1861 – Nick, leading Laura Williamson, acted for the LB Haringey at trial and on the LB Haringey's appeal. Although in this case Nick was instructed by a local authority, the case turned on general principles of agency in relation to the acquisition of interests in land and is not confined to the housing sphere. The Trial Judge found that Mr Ahmed (D1) had acted as agent for his wife (D2) when he signed a tenancy agreement. The Court of Appeal overturned that finding as unsupported by the evidence.
- **Bibi v (1) Bibi and (2) East End Homes Ltd (Interested Party)** (2017) – Nick was instructed by Batchelors LLP for East End Homes on its successful first appeal to the CJ and in successfully resisting the 1st Defendant's application for permission to appeal to the Court of Appeal. This case concerned

the Defendant's counterclaim that she had acquired her mother's, the Claimant, tenancy by promissory and/or proprietary estoppel.

- **Holland v Oxford City Council** [2016] EWHC 2545 (Ch) – Nick acted for Oxford City Council the defendant to this claim brought by Ms Holland. She claimed that her right to pitches at the annual St Giles' Fair was pursuant to annual periodic tenancy agreements. Nick successfully argued that Ms Holland only a licence of the pitches and that her apparent 'security of tenure' was based on her rights as a member of the Showmen's' Guild of Great Britain. Ms Holland was refused permission to appeal by the Court of Appeal.

Public Law

Nick is regularly instructed by Local Authorities and Housing Associations to act and advise in cases in which public law and human and equality rights claims are brought against them. Nick is also instructed by other large public bodies to act and advise in response to such claims.

Nick's recent and pending public law significant cases include:

2023

- **Zaman v LB Waltham Forest** (2023) – Nick is leading Michael Mullin in this second appeal on a homelessness case. The Appeal is listed in the first week of February 2023. The case is another challenge to out of borough placements on the grounds of suitability.
- **Global Guardians & Ors. v (1) LB Hounslow, (2) Laleva and Ors** (2022) – Nick is acting for the Appellant with Sean Pettit. This case is listed in the Court of Appeal on a 2nd Appeal from the UT. It concerns Rent Repayment Orders and Financial Penalty Notices issued against the appellants for operating an unlicensed HMO. The case has a public law element because only Councils can issue Financial Penalty Notices.
- **Royal Borough of Kensington & Chelsea v Solid Star** (2022) – Nick is instructed in an ongoing claim for a payment due under a S. 106 Agreement.

2022

- **Rowe v LB Haringey** [2022] EWCA Civ 1370 – Nick and Jennifer Moate successfully represented the LB Haringey on this appeal. The case concerned the correct approach to determining whether an applicant's current accommodation in an HMO was overcrowded and thus reasonable for her to continue to occupy.
- **Foxtons v LB Southwark** LON/00BE/HNA/2022/0011 – Nick represented Foxtons on this appeal against a Financial Penalty Notice issued by LB Southwark for an alleged breach of the Tenant Fees Act 2019. The FTT accepted Nick's argument that the request for a check out fee was not a breach of the Tenant Fees Act 2019. This is a public law case because only Councils can issue Financial Penalty Notices.
- **Norton v LB Haringey** [2022] EWCA Civ 1340 – Nick and Sean Pettit represented the LB Haringey on this appeal. The case concerned the technical requirements for a local housing authority to make a private rented sector offer (PRSO) to cause the main homelessness duty to cease under the Housing Act 1996, s. 193(7A).
- **RB Kingston upon Thames v Baptie** [2022] EWCA Civ 888 – Nick and Victoria Osler represented the RB KuT on its appeal against a s. 204 appeal decision of HHJ Hellman. The case concerned affordability of a homeless applicant's current accommodation and the use of guidance issued by an advisory organisation as evidence of what was objectively required by the applicant to meet her essential living expenses. It also concerned benefit entitlement subject to the benefit cap. Nick and Victoria were successful on the appeal.
- **R (ZLL) v LB Camden** (2022) – Nick and Terry Gallivan were instructed by the LB Camden in this claim brought by ZLL challenging the Council's operation of the 'Everyone In' policy during the covid

pandemic. ZLL's case was withdrawn following the decision in R (ZLL) v SoS for Housing, Communities and Local Govt. [2022] EWHC 85 (Admin).

- **Minott v Cambridge CC** [2022] EWCA Civ 159 – Nick and Elizabeth England represented Cambridge CC on Mr Minott's judicial review against that council's refusal to accept his repeat homeless application. After Cambridge had referred Mr Minott to another Council under the local connection rules he refused to leave the temporary accommodation that Cambridge provided him with. After he had unlawfully occupied that temporary accommodation for more than 6 months he made a further homeless application to Cambridge. The Court of Appeal held that the effect of the Local Government Agreement was that Cambridge was obliged to consider his repeat homeless application.
- **Paley v LB Waltham Forest** [2022] EWCA Civ 112 – Nick and Michael Mullin represented the LB Waltham Forest. This case concerned the correct approach to affordability assessments where the applicant, Ms Paley in this case, fails to provide up-to-date details of the expenses. The Court of Appeal rejected Nick's submissions and held that an objective (and detailed) assessment was necessary notwithstanding the applicant's failure to engage.

2021

- **Akhter v LB Waltham Forest** [2021] EWCA Civ 1688 – Nick and Michael Mullin represented the LB Waltham Forest on Ms Akhter's 2nd Appeal. The issue was whether the Council had complied with the requirements of Homelessness (Suitability of Accommodation) Order 2012, Art 3, in relation to accommodation offered to Ms Akhter in discharge of the homeless duty it owed her. The Court of Appeal accepted Nick's submissions and dismissed Ms Akhter's appeal.
- **R (FB) v LB Camden** (2021) – High Court JR – Nick and Terry Gallivan, represented LB Camden in this claim by FB challenging LB Camden's ("LBC") provision for female homeless applicants who were survivors of domestic violence. FB fled accommodation to which she had been traced by a former abusive partner. She was housed in a refuge through the LBC's Adult Pathway, which is not part of LBC's provision for homeless applicants under Part 7. FB was discharged from the refuge and applied as homeless to LBC. FB was provided with interim accommodation in hostel accommodation which catered for both men and women. FB brought a claim against LBC asserting that it failed to have sufficient single-sex accommodation for women who were historic victims of domestic violence. Her claim was brought pursuant to the European Convention on Human Rights and under the Equality Act 2010. On Nick's advice the claim was settled on advantageous terms for LB Camden.

2020

- **Gateway HA v (1) The PRs of Ali & (2) Begum** [2020] EWCA Civ 1339, The requirements of service of notices relating to land under the Law of Property (Misc. Provisions) Act 1994, section 18, where the recipient of the notice has died. The Court of Appeal adopted Nick's interpretation of the relevant statutory provisions and, in effect, overturned the influential decision of HHJ Luba QC in Hackney v Pavey (2017) (unreported). The ratio of this case applies to all notices affecting land to be served where the recipient has died, including all notices served in a landlord and tenant context.

2019

- **LB Waltham Forest v Saleh** [2019] EWCA Civ 1944 – Nick and Victoria Osler acted for the LB Waltham-Forest on its appeal against the 1st instance decision. This case concerned out of area placements and the obligation of LHAs, under the Code of Guidance, to consider available accommodation as at the date of the Review. The Court of Appeal upheld the 1st instance decision.
- **Simawi v LB Haringey & SoS CLG (intervening)** [2019] EWCA Civ 1770 – Nick and Sam Phillips acted for the LB Haringey on Mr Simawi's appeal asserting that the statutory provisions relating to succession to secure tenancies were discriminatory under the European Convention on Human Rights, Art 14 in that they treated the children of divorced parents differently to the children of parents who were married at the time of their death. The Court of Appeal adopted Nick's submissions as to why the difference in outcome for such children was not discriminatory.
- **Aldwyck HA v Forward** [2019] EWCA Civ 1334 – Nick and Millie Polimac were instructed by Devonshires LLP on behalf of Aldwyck HA. The case concerned the proper approach to a defence that raised the Public Sector Equality Duty under the Equality Act 2010, section 149. Nick and Millie were

successful on behalf of Aldwyck HA.

2018

- **XPQ v Hammersmith and Fulham LBC** [2018] EWHC 1391, Nick and Millie Polimac, represented LB H&F in this claim by XPQ. She was a victim of people trafficking. XPQ alleged that in performing housing duties to her LB H&F had breached duties to her under the EU Directive on Preventing and Combating Trafficking in Human Beings and under the Human Rights Act 1996. Nick successfully persuaded the court that the Directive did not have direct effect as against LB H&F and that there had not been any breach of the Human Rights Act 1996. Following Nick's cross-examination of XPQ the judge found that the incidents relied on by XPQ had probably not happened in any event.
- **Alibkhiet v LB Brent** [2018] EWCA Civ 2742 – Nick and Millie Polimac, acted for the LB Brent in this case concerning an out of borough placement to discharge the Council's housing duty to Mr Alibkhiet. Nick was successful notwithstanding that the LB Brent did not have a policy for the acquisition of out of brough accommodation.

2016

- **Akerman-Livingstone v Aster Communities Ltd** [2015] UKSC 15, the leading case on the test to be applied to discrimination defences.

Nick also advises public bodies on the public law lawfulness of their policies, including in 2021 and 2022:
2022

- LB X – Opinion – Nick advised a Local Housing Authority on the calculation of interest for the purpose of over recovery of water charges under the Water Re-Sale Orders.
- HA A – Opinion – Nick advised a Housing Association on its obligation to make repayments of over-recovered water charges under the Water Re-Sale Orders, in particular as to the relevant limitation periods.

2021

- LB Y – Opinion – Nick advised on whether a Local Planning Authority can use the Housing and Planning Act 2016, section 203, to remove third party rights over land that it already held in its Housing Revenue Account where the Council intended to develop the land for housing purposes. Nick's advice included consideration of the risks of Judicial Review by affected land owners and how the risks of such claims could be reduced.
- LB Z – Opinions – Nick advised a Local Housing Authority on the lawfulness of its proposed changes to its polices under the Housing Act 1996, Part 7 for meeting its duties to house homeless applicants.

Landlord and Tenant

Nick's landlord and tenant practice includes commercial leases, residential service charges and telecommunications code cases. He is often instructed by Local Authorities and other public bodies and Housing Associations in cases which have a complex public law or equality rights element. He also has a thriving private practice.

Since taking Silk in 2016 Nick has acted in the following Court of Appeal and High Court Landlord and Tenant cases:

2022 -2023

- **Global Guardians & Ors. v (1) LB Hounslow, (2) Laleva and Ors** (2022) – Nick is acting for the Appellant with Sean Pettit. This case is listed in the Court of Appeal on a 2nd Appeal from the UT. It

concerns Rent Repayment Orders and Financial Penalty Notices issued against the appellants for operating an unlicensed HMO.

- **Gill v Lees News Ltd.** (2022) – Nick is acting for the landlord on this appeal against the decision of a CJ to order the landlord to grant the tenant a new business lease of commercial premises notwithstanding that the tenant mislead the court during the proceedings about the steps that it was taking to remedy disrepair to the Premises. Nick is leading Simon Lane (Pump Court Chambers). The appeal is listed in early January 2023.
- **Leaseholder v Man Co.** (continuing) – Nick is instructed by the leaseholder of a flat worth c £20m in a claim against Management Co. (and lessor) for a management order under LTA 87, s. 24.
- **Hawk Property Investment Ltd. v Various Residential Leaseholders** (2022 and continuing) – Nick represents the residential leaseholders in a mixed-use development. They oppose the landlord's application to vary the method of calculation of their proportion of the landlord's costs they must pay by way of service charges. Nick was successful in the FTT. The landlord has been granted permission to appeal to the UT. This is an interesting case that follows Williams v Aviva [2021] EWCA Civ 27, an appeal in which was heard by the SC on 8.12.2022.
- **Various Leaseholders v HA Landlord A v Developer** (continuing) – Nick is instructed by a large Housing Association in relation to a claim by leaseholders of a low-rise block of flats arising out of a fire that effectively destroyed the block. The case involves consideration of the changes to liability of developers etc. under the Defective Premises Act 1972 as a result of the Building Safety Act 2022.
- **RB Kensington & Chelsea v Outdoor Plus** (2022 and continuing) – Nick is acting for a London Local Authority on a claim for rent arrears arising from a lease of advertising hoarding. The arrears arose during the pandemic.
- **Freeholder developer Ltd. v Residential Occupants** (2022 and continuing) – Nick is acting for a developer who purchased the freehold of an estate one building of which is occupied by residential tenants who were granted their original tenancy by the previous freeholder. The defendants have defended the claim on the basis of various allegations of failure to comply with the conditions precedent for service of a section 21 notice. This case is interesting and may require the Court to decide whether the repayment to the tenants of a sum equivalent to the amount of the deposit in circumstances in which the tenants are refusing to allow release of the deposit is sufficient for the purposes of the Housing Act 1988, s. 215(2A)
- **Various Leaseholders v HA Landlord B v Developer** (continuing) – Nick is instructed by another large Housing Association in relation to a claim by leaseholders of a low-rise block of apartments arising out of a fire that destroyed the upper storey of a block of flats. This case also involves consideration of the changes to liability of developers etc. under the Defective Premises Act 1972 as a result of the Building Safety Act 2022.
- **Foxtons v LB Southwark** LON/00BE/HNA/2022/0011 – Nick represented Foxtons on this appeal against a Financial Penalty Notice issued by LB Southwark for an alleged breach of the Tenant Fees Act 2019. The FTT accepted Nick's argument that the request for a check out fee was not a breach of the Tenant Fees Act 2019.

2021

- **Global 100 Limited v Laleva** [2021] EWCA Civ 1835 – Nick, leading Sean Pettit, was instructed by Global 100 Ltd ("G100"), a company providing 'guardian services' to property owners. G100 had granted Ms Laleva a licence to occupy a building owned by the NHS Property Services Ltd in respect of which G100 was contracted to provide guardian services. Ms Laleva defended G100's possession claim on numerous grounds, including that the agreement to occupy that G100 had granted her created a tenancy and not a licence. The Court of Appeal, accepted Nick's submissions and overturned the previous appeal decision of HHJ Luba QC, holding that a judge should try and construe a written contract by reference to its terms; i.e., evidence of the parties' subjective intentions was not an aide to construction. The Court of Appeal also held that the test as to whether, at an initial hearing, a possession claim should be subject to directions rather than summary determination, was whether any defence raised a real prospect of success; i.e., the same test as that for summary judgment under CPR Part 24. This case also raised real property issues.

2020

- **Gateway HA v PRs of Ali (deceased)** [2020] EWCA Civ 1339 – Nick, leading Victoria Osler, instructed by Capsticks LLP, acted for Gateway HA on its appeal against a 1st instance dismissal of a possession claim. The issue was the requirements for service under the Law of Property (Miscellaneous Provisions) Act 1994, section 18 where a tenant has died. The Court of Appeal adopted Nick's interpretation of the relevant statutory provisions and, in effect, overturned the influential decision of HHJ Luba QC in Hackney v Pavey(2017) (unreported). The ratio of this case applies to all notices affecting land to be served where the recipient has died, including all notices served in a landlord and tenant context.
- **Various tenants v Metropolitan BC X** (2020) (ongoing) – Nick is acting for a Metropolitan Borough Council and its Housing Association agents in relation to claims by tenants of flats arising from faulty cladding being fixed to high rise blocks by a PFI vehicle Company.

2019

- **Toms v Ruberry** [2019] EWCA Civ 128 – Nick, leading Simon Lane (Pump Court Chambers) instructed by Nalders acted for Ms Ruberry, the tenant of The Queens Arm Public House, Falmouth. Ms Ruberry's landlord, Mr Toms, served a notice pursuant to the Law of Property Act 1925, section 146 Notice, after Ms Ruberry had breached her Lease but before the contractual right of re-entry had arisen. The Court of Appeal accepted Nick's interpretation of section 146: i.e., that the contractual right of re-entry has to have arisen before the landlord can serve such a notice.
- **LB Wandsworth v c. 3,000 Leaseholders** (2019) (in the FTT) – Nick, leading Ben Maltz, represented the LB Wandsworth on this claim for a declaration that under the terms of leases granted by the council, it had the right to install sprinkler systems in the buildings and demised premises and to recover a relevant proportion of its costs of doing so from the leaseholders as service charges.
- **Town and Manor of Hungerford v Airwave Solutions Ltd.** (2019) (In Central London County Court) – Nick was instructed by the Town and Manor of Hungerford, a charity, to draft Particulars of claim against an electronics communication operator to terminate a lease of an existing site.
- **Aldwyck HA v Forward** [2019] EWCA Civ 1334 – Nick and Millie Polimac were instructed by Devonshires LLP on behalf of Aldwyck HA. The case concerned the proper approach to a defence that raised the Public Sector Equality Duty under the Equality Act 2010, section 149. Nick and Millie were successful on behalf of Aldwyck HA.
- **Livewest HA v Bamber** [2019] EWCA Civ 1174 – Nick, leading Tristan Salter, acted for Livewest HA, instructed by Capsticks LLP. The issue on the appeal was the correct interpretation of the Housing Act 1988, sections 21(1A) and 21(1B). Nick and Tristan successfully argued that the requirement that a housing association serve a 6-month notice only applies where the relevant tenancy expires by effluxion of time.

2018

- **Mr and Mrs Howie v LB Hillingdon** (2018) (High Court Claim) – Nick represented the LB Hillingdon on this claim by Mr and Mrs Howie alleging that they had been induced to enter into a Farm Business Tenancy of Park Farm by misrepresentation. The case concerned the extent of the parties' knowledge that part of Park Farm was contaminated land as a result of its use by the GLC as a landfill site. The case settled on the basis that Mr and Mr Howie would pay the Council a proportion of the compensation that they would receive from HS2 Ltd; the high-speed rail link passes through Park Farm.

2017

- **LB Haringey v (1) Ahmed & (2) Ahmed** [2017] EWCA Civ 1861 – Nick, leading Laura Williamson, acted for the LB Haringey at trial and on the LB Haringey's appeal. The Trial Judge found that Mr Ahmed (D1) had acted as agent for his wife (D2) when he signed a tenancy agreement. The Court of Appeal overturned that finding as unsupported by the evidence.

2016

- **Holland v Oxford City Council** [2016] EWHC 2545 (Ch) – Nick acted for Oxford City Council the defendant to this claim brought by Ms Holland. She claimed that her right to pitches at the annual St Giles' Fair was pursuant to annual periodic tenancy agreements. Nick successfully argued that Ms Holland only a licence of the pitches and that her apparent 'security of tenure' was based on her rights as a member of the Showmen's' Guild of Great Britain. Ms Holland was refused permission to appeal by the Court of Appeal.

Housing

Nick is regularly instructed by public sector landlords, i.e. Local Housing Authorities (LHAs) and Registered Social Landlords (RSLs) in cases which concern property or housing law and have a discrimination, human rights or European Law element.

He has acted in many of the significant cases in the area including **Akerman-Livingstone v Aster Communities Ltd** [2015] UKSC 15 the leading case on the test to be applied to discrimination defences; **Aldwyck HA v Forward** [2019] EWCA Civ 1334, the leading case on the proper approach to Public Sector Equality Duty defences to possession claims; **Simawi v LB Haringey** [2019] EWCA Civ 1770, the leading case on the application of Art 8 of the ECHR to the succession rules relating to secure tenancies; **Gateway HA v (1) The PRs of Ali & (2) Begum** [2020] EWCA Civ 1339, the leading case on the application of the LP(MP)A 1994, s. 18 and service on the PRs of a deceased tenant and **Global 100 Ltd. v Laleva** [2021] EWCA Civ 1835, for these purposes the leading case on the standard to be applied by the Court when deciding whether a defence should be determined summarily under CPR Part 55.8(2).

Since his appointment as a Silk in 2016 Nick has acted in the following significant Housing cases:

2022

- **Rowe v LB Haringey** [2022] EWCA Civ 1370 – Nick and Jennifer Moate successfully represented the LB Haringey on this appeal. The case concerned the correct approach to determining whether an applicant's current accommodation in an HMO was overcrowded and thus reasonable for her to continue to occupy.
- **Norton v LB Haringey** [2022] EWCA Civ 1340 – Nick and Sean Pettit represented the LB Haringey on this appeal. The case concerned the technical requirements for a local housing authority to make a private rented sector offer (PRSO) to cause the main homelessness duty to cease under the Housing Act 1996, s. 193(7A).
- **RB Kingston upon Thames v Baptie** [2022] EWCA Civ 888 – Nick and Victoria Osler represented the RB KuT on its appeal against a s. 204 appeal decision of HHJ Hellman. The case concerned affordability of a homeless applicant's current accommodation and the use of guidance issued by an advisory organisation as evidence of what was objectively required by the applicant to meet her essential living expenses. It also concerned benefit entitlement subject to the benefit cap. Nick and Victoria were successful on the appeal.
- **R (ZLL) v LB Camden** (2022) – Nick and Terry Gallivan were instructed by the LB Camden in this claim brought by ZLL challenging the Council's operation of the 'Everyone In' policy during the covid pandemic. ZLL's case was withdrawn following the decision in R (ZLL) v SoS for Housing, Communities and Local Govt. [2022] EWHC 85 (Admin).
- **Minott v Cambridge CC** [2022] EWCA Civ 159 – Nick and Elizabeth England represented Cambridge CC on Mr Minott's judicial review against that council's refusal to accept his repeat homeless application. After Cambridge had referred Mr Minott to another Council under the local connection rules he refused to leave the temporary accommodation that Cambridge provided him with. After he had unlawfully occupied that temporary accommodation for more than 6 months he made a further homeless application to Cambridge. The Court of Appeal held that the effect of the Local Government Agreement was that Cambridge was obliged to consider his repeat homeless application.
- **Paley v LB Waltham Forest** [2022] EWCA Civ 112 – Nick and Michael Mullin represented the LB

Waltham Forest. This case concerned the correct approach to affordability assessments where the applicant, Ms Paley in this case, fails to provide up-to-date details of the expenses. The Court of Appeal rejected Nick's submissions and held that an objective (and detailed) assessment was necessary notwithstanding the applicant's failure to engage.

2021

- **Akhter v LB Waltham Forest** [2021] EWCA Civ 1688 – Nick and Michael Mullin represented the LB Waltham Forest on Ms Akhter's 2nd Appeal. The issue was whether the Council had complied with the requirements of Homelessness (Suitability of Accommodation) Order 2012, Art 3, in relation to accommodation offered to Ms Akhter in discharge of the homeless duty it owed her. The Court of Appeal accepted Nick's submissions and dismissed Ms Akhter's appeal.
- **R (FB) v LB Camden** – High Court JR – Nick and Terry Gallivan, represented LB Camden in this claim by FB challenging LBC's provision for female homeless applicants who were survivors of domestic violence. FB fled accommodation to which she had been traced by a former abusive partner. She was housed in a refuge through the LBC's Adult Pathway, which is not part of LBC's provision for homeless applicants under Part 7. FB was discharged from the refuge and applied as homeless to LBC. FB was provided with interim accommodation in hostel accommodation which catered for both men and women. FB brought a claim against LBC asserting that it failed to have sufficient single-sex accommodation for women who were historic victims of domestic violence. Her claim was brought pursuant to the ECHR and under the Equality Act 2010. On Nick's advice the claim was settled on advantageous terms for LB Camden.

2020

- **Gateway HA v (1) The PRs of Ali & (2) Begum** [2020] EWCA Civ 1339, The requirements of service of notices relating to land under the Law of Property (Misc. Provisions) Act 1994, section 18, where the recipient of the notice has died. The Court of Appeal adopted Nick's interpretation of the relevant statutory provisions and, in effect, overturned the influential decision of HHJ Luba QC in Hackney v Pavey (2017) (unreported). The ratio of this case applies to all notices affecting land to be served where the recipient has died, including all notices served in a landlord and tenant context.

2019

- **LB Waltham Forest v Saleh** [2019] EWCA Civ 1944 – Nick and Victoria Osler acted for the LB Waltham-Forest on its appeal against the 1st instance decision. This case concerned out of area placements and the obligation of LHAs, under the Code of Guidance, to consider available accommodation as at the date of the Review. The Court of Appeal upheld the 1st instance decision.
- **Simawi v LB Haringey & SoS CLG (intervening)** [2019] EWCA Civ 1770 – Nick and Sam Phillips acted for the LB Haringey on Mr Simawi's appeal asserting that the statutory provisions relating to succession to secure tenancies were discriminatory under the European Convention on Human Rights, Art 14 in that they treated the children of divorced parents differently to the children of parents who were married at the time of their death. The Court of Appeal adopted Nick's submissions as to why the difference in outcome for such children was not discriminatory.
- **Aldwyck HA v Forward** [2019] EWCA Civ 1334 – Nick and Millie Polimac were instructed by Devonshires LLP on behalf of Aldwyck HA. The case concerned the proper approach to a defence that raised the Public Sector Equality Duty under the Equality Act 2010, section 149. Nick and Millie were successful on behalf of Aldwyck HA.
- **Livewest HA v Bamber** [2019] EWCA Civ 1174 – Nick, leading Tristan Salter, acted for Livewest HA, instructed by Capsticks LLP. The issue on the appeal was the correct interpretation of the Housing Act 1988, sections 21(1A) and 21(1B). Nick and Tristan successfully argued that the requirement that a housing association serve a 6-month notice only applies where the relevant tenancy expires by effluxion of time.

2018

- **XPQ v Hammersmith and Fulham LBC** [2018] EWHC 1391, Nick and Millie Polimac, represented LB

H&F in this claim by XPQ. She was a victim of people trafficking. XPQ alleged that in performing housing duties to her LB H&F had breached duties to her under the EU Directive on Preventing and Combating Trafficking in Human Beings and under the Human Rights Act 1996. Nick successfully persuaded the court that the Directive did not have direct effect as against LB H&F and that there had not been any breach of the Human Rights Act 1996. Following Nick's cross-examination of XPQ the judge found that the incidents relied on by XPQ had probably not happened in any event.

- **Alibkhiet v LB Brent** [2018] EWCA Civ 2742 – Nick and Millie Polimac, acted for the LB Brent in this case concerning an out of borough placement to discharge the Council's housing duty to Mr Alibkhiet. Nick was successful notwithstanding that the LB Brent did not have a policy for the acquisition of out of brough accommodation.

2017

- **LB Haringey v (1) Ahmed & (2) Ahmed** [2017] EWCA Civ 1861 – Nick, leading Laura Williamson, acted for the LB Haringey at trial and on the LB Haringey's appeal. The Trial Judge found that Mr Ahmed (D1) had acted as agent for his wife (D2) when he signed a tenancy agreement. The Court of Appeal overturned that finding as unsupported by the evidence.
- **Bibi v (1) Bibi and (2) East End Homes Ltd (Interested Party)** (2017) – Nick was instructed by Batchelors LLP for East End Homes on its successful first appeal to the CJ and in successfully resisting the 1st Defendant's application for permission to appeal to the Court of Appeal. This case concerned the Defendant's counterclaim that she had acquired her mother's, the Claimant, tenancy by promissory estoppel.

FURTHER INFO

Directory Quotes





"Nicholas Grundy is highly reliable and efficient in his skill sets and experience in dealing with social housing matters."

"Nick continues to be a leading light in the sector and can always be relied upon to provide pragmatic and commercially aware advice."

"Nick has acted in some big and complex issues. He provides a level of security for the clients."

"Nicholas is the go-to senior. He has assisted us with some complex technical issues and has the gravitas and authority to not only get results at court but to make clients feel safe in his hands."
Chambers & Partners 2026

"Nicholas is thorough, technically excellent and manages to deliver advice in a firm yet charming manner."

"Nicholas continues to be the leading light in the sector, particularly in relation to emerging issues surrounding building safety and its interrelationship with established landlord and tenant law."
Chambers & Partners 2025

“Nick Grundy KC is an excellent advocate and he handles even difficult clients with skill and charm to ensure that they are put at ease.”

“Nick Grundy KC has provided support in a number of high-profile matters and always delivers a high level of advice and work.”

“He thinks on his feet and uses novel approaches to complex legal issues.”

“Nick Grundy KC is excellent and thorough.”
Chambers and Partners 2024

“Nicholas is able to explain complex issues to lay clients in a manner which ensures that they understand the issues at hand. He is our first choice for complex housing management cases.”

“Nick is a formidable advocate and skilled at drafting formal advices.”
Chambers & Partners 2023

“He has impressed with his advice on technical aspects of regulatory compliance. He is a very impressive barrister and incredibly easy to work with.” “He is magnificent. His advice and advocacy are impeccable and of the highest standard, and yet he retains the ability to communicate complex matters to solicitors and clients.”
Chambers & Partners 2022

“Clients love him and he speaks a language that everyone understands. He has a formidable presence in court.”
Chambers & Partners 2021

“He is enormously capable and extremely personable with clients.” “He is very tenacious in tribunal and great to work with.”
Chambers & Partners 2020

“A very smooth advocate with vast legal knowledge and the ability to digest complex matters very quickly.” “He has a tremendous work ethic – nothing is either too big or too small. He is always happy to get involved.”
Chambers & Partners 2019

“He is academically so sharp and so clever, but he brings you with him and helps you catch up.” “For really hardcore cases, or where things have gone badly wrong, there is no one better to go to. He has an excellent bedside manner as well.” “A forceful advocate.”
Chambers & Partners 2018

“He does a brilliant job, he’s right on the money. His response times are frightening and his level of client care is a cut above.” “Absolutely excellent advice. He has a real depth of knowledge but has also retained a very down-to-earth manner.”
Chambers & Partners 2017

“He is combative in cross-examination and not afraid to ask the difficult questions.” “He sweeps majestically into the room and suddenly the world is all right.” “He is a very smooth advocate who puts clients at their ease.”
Chambers & Partners 2016

‘His skills as an advocate are unsurpassable.’
Ranked Tier 1 for Social Housing and Ranked Tier 4 for Property Litigation as a Leading Silk in **The Legal 500 UK 2026**

Ranked Tier 1 for Social Housing and Ranked Tier 4 for Property Litigation as a Leading Silk in **The Legal 500 UK 2025**

Ranked Tier 1 for Social Housing and Ranked Tier 4 for Property Litigation as a Leading Silk in **The Legal 500 UK 2024**

“Nick’s advocacy is nothing short of awe-inspiring – he formulates persuasive arguments delivered in exactly the correct manner, whatever the case.” “He offers excellent service to clients.”
The Legal 500 UK 2023

"Nick is very hardworking, extremely knowledgeable, has a very sharp mind, gets results, is approachable and responsive. Excellent advocate and gives clear advice. Lead counsel in many leading housing cases." "Nick is a brilliant legal mind and incredibly sharp. He is always fully prepared and all over the issues at hand. He is our go to man for all Court of Appeal work and clearly a leading legal mind when it comes to all matters housing."
***The Legal 500 UK* 2022**

"He is at the top of his game. Displayed first-class knowledge of the law whilst maintaining an ability to translate complex legal principles into simple terms that could be understood by our client." "He is a fierce and highly skilled advocate and a reassuring team player, hugely popular with clients."
The Legal 500 UK 2021

"A barrister of superb quality with a legal knowledge which is second to none." " He has an amazing ability to appear relaxed in even the most difficult cases and puts clients at their ease."
The Legal 500 UK 2020

"*Capable of analysing both sides of a fiendishly complex problem."* "*A smooth, vastly knowledgeable advocate, who gets the right result every time."*
The Legal 500 UK 2019

"One of the country's best, without a shadow of doubt."
The Legal 500 UK 2017

"Feisty and forthright with a real enthusiasm for property and housing law."
The Legal 500 UK 2016

"Meticulous in his preparation and a pleasure to work with."
The Legal 500 UK 2015

Qualifications

Jesus College Cambridge – MA Archaeology & Anthropology (2.1 Hons).
Loughborough University – MSc Sport's Science (distinction).
Westminster University – dip Law (Merit)

Important Cases

- ***R (Minott) v Cambridge City Council*** [2021] EWHC 211 (Admin). *Is local connection acquired by unlawful occupation of temporary accommodation.*
  Nick represented Cambridge CC ("CCC") on this Judicial Review seeking an order quashing its decision that Mr Minott had not acquired a local connection with Cambridge for the purposes of the Housing Act 1996, s. 198. Mr Minott had first applied to CCC on 26.3.2019. CCC provided him with interim accommodation but his case was referred to Sandwell MBC ("SMBC") under the local connection rules. SMBC accepted the referral and Mr Minott's licence to occupy the interim accommodation as ended on 3.9.2019 (i.e., less than six-months after he had moved into that accommodation). Mr Minott asked for a review of the referral and refused to leave the interim accommodation and CCC issued a possession claim. The review decision upheld the referral decision. However, Mr Minott had by the end of September been living in Cambridge (in the interim accommodation) for six-months and he made a new homeless application to CCC. CCC refused to accept that application on the basis that other than the passage of time there had been no material change of facts. Mr Minott applied for JR. He argued that his unlawful occupation of the interim accommodation gave rise to a local connection with Cambridge and therefore CCC was obliged to accept his second homeless application. The Judge dismissed Mr Minott's JR, agreeing with Nick, he held that unlawful occupation of accommodation initially provided by an LHA as interim accommodation was different to interim accommodation occupied lawfully and that CC was entitled to take the view that Mr Minott's occupation after 2.9.2019 could not give rise to a local connection. At paragraph 44(vi) the judge observed that if a homeless applicant could rely on lawful occupation of interim accommodation

that would thwart the local connection rules.

- ***Gateway HA v (1) The PRs of Ali & (2) Begum*** [2020] EWCA Civ 1339, *The requirements of service of notices relating to land under the Law of Property (Misc Provisions) Act 1994, S. 18.*
  Nick and Victoria Osler acted for Gateway HA on its appeal against the dismissal of its possession claim on the basis that it had failed to comply with the service requirements of the LP(MP)A 1994, s. 18. Section 18 applies to the service of all notices relating to land where the recipient of the notice has died. Following a decision of HHJ Luba QC in *LB Hackney v Pavey* (2017) (unreported) (which decision was binding on DJs) it was very difficult for social landlords to serve notices to quit ending the residual common-law tenancy where their tenant had died. Nick and Victoria successfully argued that HHJ Luba's interpretation of S. 18 was wrong. They principally relied on the Law Commission Report that gave rise to the enactment of LP(MP)A S. 18. This decision is of importance for those who have a right to serve a notice relating to land where the intended recipient of the notice has died before grant of representation has been filed. The Court of Appeal held that a notice is sufficiently served under S. 18 if the copy of the notice is served on the Public Trustee before the expiry of the original notice served on the personal representatives deceased.

- ***LB Wandsworth v >2,000 Lessees*** **(2019)**
  Service Charges; Installation of Sprinklers and First-tier Tribunal Jurisdiction.
  A case in the First-tier Tribunal, LB Wandsworth issued this claim in the F-tT seeking a determination of whether under the terms of different iterations of the leases it had granted under the Right to Buy it was entitled to recover, as service charges the costs of installation of sprinkler systems in Blocks of ten storeys or more. Nick led Ben Malz. By a Judgment dated 18.12.2019 the F-tT held that the LB Wandsworth's Application was beyond its jurisdiction as too theoretical; the LB Wandsworth did not have detailed plans in relation to any of the Blocks.

- ***Waltham Forest LBC v Saleh*** **[2019] EWCA Civ 1944**
  Homelessness; Out of Area placements and Reviews.
  Nick and Victoria Osler acted on behalf of the LB Waltham Forest on its appeal to overturn the decision of HHJ Saggerson, that on a review of the suitability of accommodation provided in discharge of a homelessness duty a local housing authority must consider what other accommodation it has available to allocate to the applicant that is within or closer to its borough than the accommodation challenged by the applicant as unsuitable. The Court of Appeal upheld the 1st Instance decision.

- ***LB Haringey v Simawi & SoS for Communities and Local Government (intervening)*** **[2019] EWCA (Civ) 1770**
  Secure Tenancies; Single right of Succession; Discrimination under ECHR Art. 14.
  Nick led Sam Phillips on this challenge to the single right of succession to a secure tenancy in the Housing act 1985, Part III. Mr Simawi argued that the fact that he did not have the right to succeed to his mother's secure tenancy was a breach of Articles 8 and 14 of the European Convention on Human Rights. Nick and Sam successfully argued that the restriction was not discriminatory because the outcome would have been the same whether Mr Simawi's mother or father had died first.

- ***Aldwyck HA v Forward*** **[2019] EWCA Civ 1334**
  Nick, leading Millie Polimac, won in the Court of Appeal, they were instructed by Devonshires on behalf of Aldwyck HA. This case concerned the Public Sector Equality Duty ("PSED") set out in the Equality Act 2010, s. 149. Aldwyck brought possession proceedings against Mr Forward (F) on the basis that he had caused A-SB by using and/or allowing his flat to be used for drug dealing and consumption. At the trial Aldwyck's relevant officer accepted that her PSED assessment was inadequate because whilst she knew that F was physically disabled she had not taken account of his disability as she had no medical evidence relating to it. The Court of Appeal held, applying public law principles, that a failure to comply with the PSED was not fatal to a claim if the outcome of the claim would have been the same if the public law duty had been complied with.

- ***Livewest HA v Bamber*** **[2019] EWCA Civ 1174**
  Nick, leading Tristan Salter, instructed by Capsticks on behalf of Livewest HA, won in the Court of Appeal. Livewest, a registered provider of social housing (RSPH), had granted Ms Bamber a 7-year fixed term assured shorthold tenancy (AST); in its first year, called the 'starter period', the tenancy Livewest could end the fixed-term tenancy with a break notice. Livewest exercised its break option and the tenancy became a statutory periodic AST. Livewest then sought possession using the HA 88, s. 21 procedure. The case concerned whether or not the new ss. 21(1A) and 21(1B) apply where a RPSH ended a fixed term AST of 2 years or more before the end of the term? The Court held that the requirement that an RSPH serve a 6-month' notice before it can use the shorthold procedure to obtain possession only applies when the fixed-term tenancy has ended by effluxion of time.

- ***Toms v Ruberry* [2019] EWCA Civ 128**
  Nick represented Ms Ruberry, the tenant of licensed premises in this case which concerned the statutory interpretation of the Law of Property Act 1925, S. 146. The issue for the Court of Appeal was whether a landlord can serve a S. 146 Notice when the relevant breach that will, if it continues, give rise to a right of re-entry has arisen, or must wait until his right of re-entry has arisen. Surprisingly, given that ss. 146(1) is not explicit and a provision identical to that in S. 146 has been on the statute book since 1881, this issue had not previously been determined by either of the higher appellate courts. The Court of Appeal dismissed Mr Tom's appeal and accepted Nick's submissions that the landlord's right of re-entry in ss. 146(1) refers to a crystallised right of re-entry.

- ***Alibkhiet v Brent LBC* [2018] EWCA Civ 2742**
  This is the first appellate case considering out of area placements since the Supreme Court decision in Nzolameso [2015] UKSC 22. In discharge of the full housing duty under s. 193 of the Housing Act 1996, Brent LBC offered Mr. Alibkhiet private rented sector accommodation in Smethwick, in the west Midlands. Mr. Alibkhiet rejected that offer. He was successful on his statutory appeal against Brent's review decision that offer was lawful. Nick represented Brent on its successful appeal to the Court of Appeal. The Court accepted Nick's submissions that notwithstanding that on the date that Brent made the offer of accommodation there had been available accommodation closer to Brent, the offer of accommodation in Smethwick was lawful and discharged the Council's duty to Mr Alibkhiet.

- ***XPQ v Hammersmith and Fulham LBC* [2018] EWHC 1391**
  XPQ was a victim of people trafficking. She alleged that in performing housing duties to her LBH&F had breached duties to her under the EU Directive on Preventing and Combating Trafficking in Human Beings and under the Human Rights Act 1996. Nick represented the LBH&F. He was successful in persuading the court that the Directive did not have direct effect as against LBH&F and that there had not been any breach of the Human Rights Act 1996. Following Nick's cross-examination of XPQ the judge found that the incidents relied on by XPQ had probably not happened in any event.

- ***Enfield LB v Turner* [2018] EWHC 1341 (QB)**
  Ann Turner was not entitled to succeed to her mother's secure tenancy. However, she was blind and disabled and had lived in her mother's house for at least 10 years prior to her mother's death. Ann Turner defended the possession claim brought by the LB Enfield on the basis of Article 8 of the European Convention of Human Rights. The Recorder dismissed this defence on the basis that LB Enfield was undertaking to re-house Ann Turner when it enforced the possession order. Nick represented Ann Turner on her appeal.

- ***Teign Housing Association v Lane* [2018] EWHC 40 (QB)**
  Mr Lane was Teign HA's tenant of residential premises. He defended possession proceedings on the basis that he was disabled and that it would not be proportionate to make a possession order; i.e. Article 8. At first instance the judge found that notwithstanding that Mr Lane had behaved largely as alleged because of his lack of understanding of his tenancy condition and of communication with his landlord his actions did not amount to 'a relevant breach of his tenancy agreement.' Nick drafted grounds of appeal and permission to appeal was granted by the Circuit Judge. The appeal was successful before Dingemans J.

- ***LB Haringey v Ahmed & Ahmed* [2017] EWCA Civ 1861**
  The High Court judge found that Mr Ahmed was, on the basis of previous conduct, an agent for his wife Ms Ahmed in entering into a tenancy agreement and that she accordingly occupied premises pursuant to a tenancy executed by him but not her. Nick represented LB Haringey at trial and on subsequent successful appeal. The Court of Appeal held, on the basis of Nick's cross-examination of Ms Ahmed at trial, that there was no evidence on which the judge could have found an agency. Ms Ahmed cross-appealed raising ratification and proportionality. Nick was successful and the Appeal and the cross appeals were dismissed.

- ***Bibi v Bibi & East End Homes (as Interested Party) (2017) County Court Appeal (Unreported)***
  Nick represented East End Homes, the interested party, in this action. The claim was brought by Mrs B Bibi against her daughter, Ms A Bibi. Mrs B Bibi sought possession of her flat, which was let to her by East End Homes. Ms A Bibi defended the claim on the basis of a proprietary estoppel. Following a trial the DJ found that there was an estoppel and ordered Mrs A Bibi to transfer her tenancy of the flat to Ms B Bibi. East End Homes was joined after the trial. East End Homes appealed against the DJ's Order. Nick was successful on the appeal to the CJ, arguing that estoppel could not be used to enlarge Mrs Bibi's rights under the tenancy and as she could not voluntarily have transferred her tenancy to her daughter the court could order her to do so.

- ***Devon & Cornwall HA v Bamber (2016) County Court Appeal (Unreported)***

Ms Bamber was DCHA's assured tenant of a flat. Her tenancy started as an AST and became an assured (non-shorthold) tenancy if she successfully completed the first year of her tenancy. The DJ held that ss. 21(1A) and 21(1B) had the effect that DCHA was not entitled to possession of the Flat because a notice under those sections had not been served. Nick drafted grounds of appeal and Skeleton Argument for DCHA, upon which grounds the Housing Association's was successful on Appeal to the County Court. (Nick couldn't do the appeal hearing because he was otherwise in court on the date of the Appeal).

- ***Holland v Oxford City Council: Trial before Master Bowles*** **[2016] EWHC 2545 (Ch)**
  Ms Holland claimed that her right to use two pitches at St Giles' Fair were annual periodic tenancies and that the Council, in reducing the size of one of those pitches had derogated from its grant. Nick successfully argued that Ms Holland had only a licence of the pitches and that her apparent 'security of tenure' was based on her rights as a member of the Showmen's' Guild of Great Britain. Ms Holland has been refused permission to Appeal by Master Bowles.

- ***One Housing Group v PRs of Nunn (deceased) and Thomas: Appeal before HHJ Luba QC***
  Mr Thomas defended possession proceedings on the ground that he had succeeded to Mr Nunn's assured tenancy under section 17 of the Housing Act 1988 on the basis that he and Mr Nunn had lived at the flat 'as if they were civil partners'. At 1st instance the DJ applied a test analogous to that for 'living together as if married' which required the person asserting the fact to show 'a mutual lifetime commitment' (see e.g. *Nutting v Southern Housing Group* [2004] EWHC 2983 (Ch); and *Amicus Horizon Ltd. v Estate of Mabbott and Brand* [2012] EWCA Civ 895).
  The DJ found that Mr Thomas' continuing ideal of securing his own flat negatived the commitment required. On appeal Mr Thomas asserted that the DJ erred in applying the same test; in effect the test for living together as if married is based on the historical religious institution of marriage where the vows were 'til death do us part'. Nick represented OHG on the appeal and successfully argued that the tests for living together as if married and living together as if civil partners are analogous. Mr Thomas has applied for permission to appeal. The test for living together as if civil partners has a wider application that just housing so permission may be granted.

- ***Brown v Haringey LBC*** **[2015] EWCA Civ 483**
  Committal, Article6, Right to a Fair Trial, Legal Aid.
  Nick represented Haringey on Mr Brown's appeal against his committal for contempt of court. The appeal concerned the availability of criminal legal aid for those accused of contempt of court and the right to a fair trial under Article 6 of the European convention on Human Rights.

- ***Akerman-Livingstone v Aster Communities Ltd*** **[2015] UKSC 15**
  Equality Act 2010, s.15, Disability Discrimination, Proportionality.
  Nick successfully represented Aster Communities Ltd. on Mr Akerman-Livingstone's appeals to the Supreme Court, the Court of Appeal and the High Court against the summary dismissal of his discrimination defence against a possession claim. The case concerned the issue of 'proportionality' for the purposes of section 15 of the Equality Act 2010.

- ***Southend-on-sea BC v Armour*** **[2014] EWCA Civ 231**
  Article 8, Proportionality, Introductory Tenancy.
  Nick represented Southend-on-Sea BC on appeal to the High Court and to the Court of Appeal against a first instance decision that Mr Armour had a good Article 8 defence to a possession claim on the grounds that he had, after the issue if the claim, not further breached his tenancy.

- ***Chishimba v RB Kensington & Chelsea*** **[2013] EWCA Civ 786**
  Homelessness, Housing Act 1996, International homelessness.
  Nick was instructed by RBK&C on Ms. Chishimba's statutory appeal and her appeal to the Court of Appeal against the council's decision that she was intentionally homeless. RBKC has petitioned the Supreme Court for permission to appeal the Court of Appeal's decision; Nick drafted the grounds for that petition. The Supreme Court's decision on whether to grant permission is awaited.

- ***Obiorah v Lewisham LBC*** **[2013] EWCA Civ 325**
  Homelessness, Housing Act 1996, discharge of duty.
  Nick successfully represented LB Lewisham at 1st instance and on Ms Obiorah's appeal to the Court of Appeal. Ms Obiorah had challenged Lewisham's decision to discharge its housing duty to her.

- ***Ofogba v Southwark LBC*** **[2012] EWHC 1620 QB**
  Secure Tenancy, Housing Act 1985. Water Charges.
  Nick was instructed by Southwark LBC in this possession claim. Mr Ofogba challenged the lawfulness

of some of the sums which the Council has charged him in addition to his net rent, in particular the lawfulness of water charges recovered by Southwark on behalf of Thames Water. The Council won at 1st instance, Mr Ofogba's appeal to the Court of Appeal was compromised.

- ***RB Kensington & Chelsea v Westwoods Ltd (2012) RPTS, London Tribunal, decision***
  House in Multiple Occupation (HMO) referral to RPTS.
  Nick represented RBK&C on this, the first referral by a criminal court for the determination of whether or not particular premises were an HMO for the purposes of the Housing Act 2004.

- ***LB Barnet v Phoenix & Others (2012) Barnet County Court***
  Nick successfully represented the LB Barnet in these possession proceedings against members of the occupy movement and others who defended the possession claim on the basis of Article 10 and 11. The Defendants' application for permission to appeal to the Court of Appeal was refused by a single judge.

- ***Southwark LBC v Francis* [2011] EWCA Civ 1418**
  Right to Buy, Housing Act 1985, duty of housing authority.
  An appeal by Mr Francis against the 1st instance dismissal of his appeal for damages for Southwark LBC's failure to admit his right to buy the flat of which he was the secure tenant.
  Mr Francis' appeal was dismissed.

- ***Brent LBC v Shulem B* [2011] EWHC 1663 (Ch)**
  Service charges, Landlord and Tenant Act 1985 s. 20B.
  Shulem B's appeal against an interlocutory decision concerning the construction of LTA 85, s. 20B. The appeal decision of Paul Morgan J. is the leading case on the requirements of a notice for the purpose of a notice under LTA 85, s. 20B(2). Nick, instructed by Brent, obtain permission to appeal from the Court of Appeal but the case settled before the appeal hearing.

- ***Nzamy v Brent LBC* [2011] EWCA Civ 283**
  Homelessness, Housing Act 1996, discharge of duty.
  A second appeal by Ms Nzamy against the judges's 1st instance decision dismissing her appeal.

- ***Haringey LBC v Hines* [2010] EWCA Civ 1111**
  Right to Buy, Housing Act 1985, deceit.
  An appeal by Ms Hines against the judge's 1st instance finding that she had not been entitled to exercise the right to buy.

- ***St. Pancras and Humanist Housing Association v Leonard* [2008] EWCA Civ 1442**
  Proprietary estoppel, adverse possession.
  A claim for possession by an RSL of a substantial garage in Hampstead; the trespasser defended relying adverse possession and was opposed on estoppel. The RSL Nick represented won at 1st instance and on appeal.

- ***Compatriot Holdings Ltd. v Santos & Santos* [2007] EWCA Civ 683**
  Rent Act 1977; new tenancy of different premises.
  Appeal on findings of fact of 1st instance judge.

- ***Title Gallions Housing Association v Various (> 400) LON/LV/21-32/05 (Judgment by Professor Farrand QC, dated 21.3.07)***
  Variation of Leases pursuant to s. 35 Landlord & Tenant Act 1987.
  Gallions' application to vary service charge recovery provisions of> 400 leases granted under Right to Buy provisions by different landlords including the GLC, the LRB and Thamesmead Town so as to regularise them; the applications succeeded.

- ***Denton v LB Southwark* [2007] EWCA Civ 623**
  Homelessness under Part VII of the Housing Act 1996.
  LB Southwark successfully appealed against the 1st instance decision that its s. 202 decision was unlawful and should be quashed. Definition of accommodation it would have been reasonable for the applicant to occupy for s. 191(1) where the applicant has breached 'house rules'.

- ***LB Haringey v Hickey* [2006] EWCA Civ 373**
  Secure Tenancies under the Housing Act 1985.
  The appeal concerned the construction of the provisions of paragraph 4 to Schedule 1 of the housing Act 1985 'exclusions to secure status'.

- ***Crest Nicholson Residential (South) Limited v McAllister* [2004] Civ 410**

Restrictive covenants and freehold land.

- ***Francis v Royal Borough of Kensington & Chelsea*** **[2003] EWCA Civ 443**
  Subject/areas of law Section 204A Housing Act 1996; interim accommodation.
  This case concerned the appropriate test to be applied on an application by an applicant for interim housing pending s. 204 Appeal and the court's jurisdiction on such appeal.

Other recent matters

In addition to his 'important cases' Nick is currently acting or has recently acted in cases concerning the following:

Large Residential Service Charges Claims
A service charge claim relating to more than 20 properties held by the members of a single family from the Howard de Walden Estate and involving alleged service charge arrears exceeding £250,000 which was listed for a ten day hearing. Nick represented the tenants.

Telecommunications Masts
Nick is representing a charity that is the freeholder of common lane on which an unlawful sub-tenant granted a telecommunications operator a lease to erect telecommunications equipment on a Mast Site. The Telecommunications operator's sub-lease has expired and all intermediate leases have either expired or been determined; i.e. but for the rights under the Telecommunications Codes 2003 and 2017, the charity is entitled to possession of the Mast Site. The case concerns the operation of the Telecommunications Code 2017 and real property rights.

Farm Business Tenancy and HS2 Ltd
Nick represents a defendant Council in a claim brought the Council's tenants under a Farm Business Tenants alleging misrepresentation and an estoppel. The case is complicated by the fact that a significant part of the farm is required by HS2 Ltd. for the HS2 development and various notices have been served in that respect.

Charitable Housing Trust Head-Leases
Nick is instructed on behalf of a charitable housing trust is the lessee under a number of head-leases from the same landlord of Victorian buildings that it sub-lets to residential occupiers; some of the occupiers are secure tenants and some are assured tenants. The head-leases are due to expire over the next 50 years, although some significantly earlier. The housing trust and freeholder are in negotiations for the grant of new head-leases; in those negotiations the freeholder wants the housing trust to surrender part of the land, including some of the flats, currently demised under the head leases. This case concerns the public law duties and contractual obligations of the housing trust to its secure and assured tenants and the status of those tenants if their flat is included in the land surrendered.

Development Site
Nick has advised a City Council in relation to its rights over a city centre development site where the developer has been granted a development lease in relation to the site which has planning consent but has not carried out the development.

Contaminated Land
Nick has advised the purchasers of houses on a site which has, after their purchase, been determined to be contaminated land. The local planning authority knew about the contamination at the time when it granted planning consent for the development and included in the planning consent conditions that would have prevented contact between the residents and the contaminated land; i.e. the erection of a fence, but would not have remediated the contamination.

Installation of Sprinklers following Grenfell
Nick is acting for a Council in an application to the First-tier Tribunal for a declaration that the Council can, under the terms of residential leases, claim the relevant proportion of its costs of installation of sprinklers in the tower blocks in which the relevant flats are situated.

Mediation

Nick has acted for commercial landlord and tenant clients on mediation in particular in relation to service charges.

Professional Memberships

Nick is on the Committee of the Social Housing Law Association and is a member of the Property Bar Association.

Privacy Notice

Click here for Nicholas's Privacy Notice