



**UNTO THE RIGHT HONOURABLE
LORDS OF COUNCIL AND SESSION**

PETITION

of

Shelter, The National Campaign for Homeless People Limited

a company limited by guarantee and having a place of business at Scotiabank House, 6 South
Charlotte Street, Edinburgh, EH2 4AQ

Petitioner

for

Judicial Review of a failure by Glasgow City Council (first respondent) and Glasgow City
Integration Joint Board, providing services as "the Glasgow City Health and Social Care
Partnership" (second respondent), to perform their statutory duties under Part II of the
Housing (Scotland) Act 1987

HUMBLY SHEWETH:

1. That the petitioner is a company limited by guarantee (Company number 1038133)
and it is also a national charity registered with the Scottish Charity Regulator
(SC002327). The first respondent is Glasgow City Council, a local authority
established under the Local Government (Scotland) Act 1994, having its
headquarters situated in Scotland and more fully designed in the schedule for
service. The second respondent is Glasgow City Integration Joint Board, an
Integration Joint Board established under section 9 of the Public Bodies (Joint

Working) (Scotland) Act 2014, and the Public Bodies (Joint Working) (Integration Joint Board Establishment) (Scotland) Order 2015. The second respondent provides services as “the Glasgow City Health and Social Care Partnership”. It has its headquarters situated in Scotland and more fully designed in the schedule for service. This Court accordingly has jurisdiction. The petitioner has standing. It campaigns on housing issues. It provides advice, information and advocacy to persons in housing need, including those who are homeless, or at risk of homelessness. These are the petitioner’s core activities. It expends resources in providing support, advice and representation to homeless persons, including those in Glasgow. It has an interest in seeing that public authorities such as the respondents adhere to their duties to provide accommodation and assistance to homeless persons. It has sufficient knowledge of the subject to qualify it to act in the public interest in a representative capacity. To the knowledge of the petitioner, there are no proceedings in any other court involving the subject matter of the present proceedings and the parties hereto. There is no agreement between the parties prorogating jurisdiction over the subject matter of the present proceedings to any other court.

2. That the grounds giving rise to the petition have existed for many years, and are ongoing.
3. That the first respondent has a statutory duty to provide interim accommodation to persons that it has reason to believe may be homeless, pending its inquiries into applications made for assistance by such persons, under part II of the Housing (Scotland) Act 1987. It is failing to comply with that duty, in respect of many such

applications. The second respondent has a strategic role in the performance of that duty. It is the Glasgow City Integration Joint Board, an Integration Joint Board established under section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014, and the Public Bodies (Joint Working) (Integration Joint Board Establishment) (Scotland) Order 2015. The second respondent provides services as “the Glasgow City Health and Social Care Partnership”. An Integration Scheme has been agreed between the first respondent and NHS Greater Glasgow and Clyde. It came into force in February 2016. A revised version of the Integration Scheme was agreed by the first respondent and NHS Greater Glasgow and Clyde in February 2018 and approved by the Scottish Ministers. The Integration Scheme entails delegation of functions by the local authority, and the health board, to a body corporate (an “integration joint board”) that is established by order under section 9 of the 2014 Act. In terms of paragraph 5.3, and part I of annex 4, of the Revised Integration Scheme, the duties of the first respondent with respect to homelessness and threatened homelessness, under part II of the 1987 Act, are to be delegated to the second respondent. The precise nature of the relationship between the respondents is unknown to the petitioner. However, it understands that the second respondent has directed the first respondent to carry out the duties to homeless persons under part II of the 1987 Act. The second respondent is involved in overall strategy, not in individual decisions: *Zungunde v Glasgow City Integration Joint Board* [2018] CSOH 100.

4. That the petitioner seeks:

- (i) declarator that the respondents do not have in place policies and

practices which enable the first respondent to comply with its duty, under section 29(1)(a) of the Housing (Scotland) Act 1987 (“the 1987 Act”), to secure that interim accommodation is made available for the occupation of persons they have reason to believe may be homeless, under section 28 of the Act; and consequently, that the respondents are failing to perform their statutory duties under sections 28 and 29 of the 1987 Act in respect of many such homeless persons applying to them for assistance;

- (ii) declarator that the failure of the respondents to address the first respondent’s continuing non-compliance with its duty under section 29(1)(a) of the Housing (Scotland) Act 1987 is irrational;
- (iii) an order requiring the respondents, whether by review of the “Glasgow Health & Social Care Partnership Homelessness Strategy 2015 – 2020” or otherwise, to prepare a strategy setting out the specific arrangements that the respondents propose to adopt, so as to enable the first respondent to comply with its duty under section 29(1)(a) of the 1987 Act, to provide interim accommodation for persons that it has reason to believe may be homeless; and to do so within such period as the Court may order.

The petitioner craves the Court to pronounce such further order or decrees, including an order for expenses, as may seem to the Court to be just and reasonable in all the circumstances of the case.

5. That the petitioner seeks these orders on the following grounds.

Statutory provisions

6. That local authorities in Scotland are subject to duties under part II of the Housing (Scotland) Act 1987. Under section 28 of the 1987 Act, if a person (“an applicant”) applies to a local authority for accommodation, or for assistance in obtaining accommodation, and the authority has reason to believe that he may be homeless or threatened with homelessness, it must make inquiries so as to satisfy itself whether he is homeless or threatened with homelessness under section 24. If the authority is so satisfied, it shall make any further inquiries necessary to satisfy itself as to whether the applicant became homeless or threatened with homelessness intentionally, under section 26. If the authority thinks fit, it may also make enquiries as to whether he has a local connection with the district of another local authority in Scotland, England or Wales, under section 27. Originally, the local authority was also required to assess whether the applicant had a “priority need”, under section 25 of the 1987 Act. In Scotland, the priority need test was abolished, and section 25 repealed, on 31 December 2012.

7. That under section 29(1)(a) of the 1987 Act (“Interim duty to accommodate”), if the local authority has reason to believe that an applicant may be homeless it shall secure that accommodation is made available for his occupation pending any decision which it may make as a result of its enquiries under section 28. The duty to provide interim accommodation in these circumstances must be performed at once: *R. (M) v Hammersmith and Fulham LBC* [2007] HLR 6. Before 31 December 2012, this duty applied only to applicants with apparent priority need. However,

that limitation was removed when section 25 was repealed. Consequently, the section 29 duty then applied to any person seeking assistance under section 28 (subject to immigration status), if the local authority has reason to believe that he is homeless.

8. That local authorities have various ways of meeting their duty to provide interim accommodation for homeless applicants, under section 29 of the Act. They may, for example, use properties in their own stock, including hostels, or other forms of accommodation. They may arrange to use accommodation owned by other landlords in the social rented sector, or by charitable organisations. They may use accommodation outside their own area. They may arrange to use privately owned properties, including hotels and B&Bs.

9. That a local authority can legitimately refuse to accept an application for assistance under section 28. It may do so where it does not have reason to believe that the applicant may be homeless or threatened with homelessness, or where the applicant is ineligible for assistance, due to his immigration status. The term "gatekeeping" denotes practices by which local authorities avoid accepting applications, or postpone acceptance, or discourage applications from being made, where those legitimate grounds for refusal of an application do not exist. A common example is the practice of turning away applicants from other local authority areas. Another example is discouraging applications, or postponing acceptance of an application, because the authority has no interim accommodation available to offer to the applicant under section 29(1)(a), in the event that an application for assistance is accepted. Gatekeeping tends to be adopted by

authorities facing difficulties in meeting the demand for interim accommodation from applicants. Because these practices are illegitimate, they are not stated in any policy which is made available to the public. Gatekeeping has the effect that applications for assistance are not recorded, leading to an underestimation of the extent of homelessness.

10. That the respondents do not have policies and practices for procuring sufficient units of temporary accommodation to enable the first respondent to meet the demand for such accommodation, under section 29 of the 1987 Act. As a consequence, the first respondent is often unable to secure that interim accommodation is made available to homeless persons making an application for assistance. The first respondent practises gatekeeping, refusing or postponing acceptance of application made by persons under section 28, when it has reason to believe that they may be homeless. It does so because, if it were to accept the applications, it would be unable to provide interim accommodation. More frequently, the first respondent records that the application has been made, but informs the applicant that there is no interim accommodation available, and invites the applicant to return to its offices the following day, by which time interim accommodation may be available. In these cases, the respondents decline to secure that accommodation is made available to applicant, under section 29(1)(a). The applicant then has to make his own arrangements to find accommodation, or sleep rough. In such cases, the applicant may have to return to the first respondents' offices on numerous occasions, in the hope that interim accommodation will eventually become available. Such applicants also seek the assistance of the petitioners, and other organisations.

11. That the obligation of local authorities to provide interim accommodation, on an emergency basis, to applicants they have reason to be homeless, is a fundamental element of the safety net provided for homeless persons, under part II of the 1987 Act. Without interim accommodation, homeless persons are liable to be forced into sleeping rough. Rough sleeping exposes homeless persons to various risks. Many homeless persons are vulnerable as a result of mental and/or physical health problems. They are in danger of suffering a deterioration in their condition, caused by the physical hardship, lack of sleep, and the feelings of guilt, shame and isolation associated with sleeping rough. Rough sleepers with mental health problems are apt to spend longer periods of time without accommodation. That increases the risk of a deterioration in their health, and death. Homeless persons with health problems who are denied accommodation are liable to find it more difficult to maintain arrangements for the management of their condition, such as taking medication. They are also apt to find it more difficult to access health services. Rough sleepers are apt to be subject to abuse or exploitation. They are also apt to find it difficult to engage with housing services. The delay in the provision of interim accommodation is more likely to discourage a person suffering from mental illness from pursuing his application. For these reasons, the failure of the first respondent to provide interim accommodation to homeless persons is a matter of grave concern to the petitioner.

Factual background

12. That the failure of the first respondent to comply with its duty to secure interim

accommodation for homeless persons led it to agree to a voluntary intervention on the part of the Scottish Housing Regulator (“the Regulator”) in December 2013.

13. That in December 2014 Glasgow Homelessness Network and The Oak Foundation produced a report “Homelessness and Complex Needs in Glasgow”. The Report describes outcomes reported by homeless persons that had approached the first respondent for assistance between April 2013 and March 2014. During the four separate quarterly reporting periods, between 42.6% and 68% of people who had approached the first respondent seeking assistance were told that no accommodation was available for them. The most frequently recorded outcome for those unable to access interim accommodation was that they went on to sleep rough.

14. That the first respondent held a council meeting on 25 June 2015. In the agenda for the meeting, the following statement was made by Councillor John Letford:

“Council further notes that, more than a year after the intervention of the Scottish Housing Regulator, in response to Glasgow City Council's breaches in its statutory duty to provide homeless people with accommodation, we are still regularly failing to meet that duty, resulting in homeless people being turned away from our services. Council believes that any suggestion that other organisations, such as housing associations, are in any way responsible, is an error and calls on the Leader of the Council to take immediate action to address the current state of homelessness services in Glasgow.

Council further calls on the Leader of the Council to convene a homelessness summit, comprising elected members from across the Chamber, homeless service staff and trade unions, registered social landlords, third sector and academic experts, to investigate the causes of and potential routes to alleviate homelessness, in order to formulate a long-term partnership plan to radically improve the Council's performance in this area.”

15. On 21 May 2015, the Glasgow Evening Times published a report: "Glasgow's homelessness caseworkers reveal a chronically under-resourced service in crisis".

In that report, one of the first respondent's caseworkers is quoted as saying:

"We're turning away 20 to 25 single people every day, men and women. The fact that people are being turned away is a statutory breach of duty. It means Glasgow City Council is breaking the law. And it's an everyday occurrence."

16. That section 1 of the Housing (Scotland) Act 2001 provides, *inter alia*, that every local authority must, when required to do so by the Scottish Ministers, carry out an assessment of homelessness in its area, and prepare and submit to the Scottish Ministers a strategy for preventing and alleviating homelessness in its area (a "homelessness strategy"). A local authority may, review its homelessness strategy and prepare and submit to the Scottish Ministers a revised homelessness strategy.

17. That under section 1 of the 2001 Act, the first respondent carried out a review of homelessness services in 2014, and in 2015 produced: "Glasgow Health & Social Care Partnership Homelessness Strategy 2015 – 2020", hereinafter referred to as "the Homelessness Strategy". Paragraph 7.1.1 of the Homelessness Strategy describes the first respondent's difficulty in moving successful homeless applicants from interim to permanent settled accommodation. At page 18 the Homelessness Strategy states:

This failure to secure an adequate supply of settled accommodation places significant pressure on the availability of emergency and temporary accommodation and has led to the Council being unable, at times, to discharge its statutory duties. It is difficult to understate the hardship this causes for homeless households, and this situation led the Council to agree a voluntary intervention on the part of the Scottish Housing Regulator (SHR) in December 2013. The Council has agreed an Improvement Plan with the SHR, and continues to work positively with the SHR towards improvements in access to emergency and settled accommodation.

The Homelessness Strategy identifies two “key outcomes”, the second of which is “Alleviate Homelessness where it does occur”. From page 27, the strategy describes certain “priority actions” in advancing that key outcome. The first is: “2A Increase the supply of temporary & settled accommodation for homeless households”, under which heading is stated:

Our priority is to provide access to temporary and settled accommodation for homeless households in line with our statutory duties.

As a stock transfer authority we require the active support of the City's social landlords to ensure an adequate supply of temporary and settled accommodation to meet the needs of homeless households.

This part of the Homelessness Strategy goes on to describe how the first respondent intends to set up a “Housing Access Team”, the successful operation of which “will lead to an increase in the supply of settled accommodation for homeless households.” However, the strategy contains no concrete and specific proposals to increase the supply of temporary accommodation, to enable the first respondent to comply with its duty under section 29(1)(a) of the 1987 Act.

18. That in March 2018, the Regulator published its report “Housing People Who are Homeless in Glasgow”. The report found that over a preceding period of one year the first respondent had a duty to make an offer of temporary or emergency accommodation (i.e. accommodation under section 29 of the 1987 Act) to households on 10,350 occasions, but made an offer in only 60% of those cases. Subsequently, the Regulator published an “Engagement Plan” which stated that the first respondent “continues to fail to meet its duties to provide temporary accommodation and emergency accommodation to a significant number of

people”, and that it “must demonstrate to us that it is discharging its statutory duties to all of those people who approach it for assistance.”

19. That in June 2018, the Scottish Government published its annual statistics “Homelessness in Scotland: 2017 to 2018”. In order for the statistics to be compiled, local authorities submit various documents to the Scottish Government, including HL3 returns. An HL3 return is completed when a local authority has a statutory duty to provide temporary accommodation to an applicant under section 29 of the 1987 Act. The authority is also required to indicate when it does not offer any temporary accommodation to an applicant and thus, is acting unlawfully. For the year 2017/18, the first respondent submitted 3,025 HL3 returns indicating instances in which a homeless person was not offered interim accommodation. In June 2019, the Scottish Government published “Homelessness in Scotland: 2018 to 2019”. For that year, the first respondent submitted 3,365 HL3 returns.

20. That in 2018 the first respondent published a report “Winter Watch – Lodging House Mission – 1st December 2017 to 31st March 2018”. The Lodging House Mission is run by Glasgow City Mission. It is a “crisis response” service that runs during the winter months, for people at danger of sleeping rough. It operates a night shelter with a bed capacity of 40 per night. Reference is made to paragraph 4.35 of the report. This indicates that the Mission served 364 individuals who had sought assistance from the first respondent, but were not offered accommodation.

The Report states:

Of the 364 who were not offered accommodation by Hamish Allan Centre or Hunter Street staff, information was provided for 255 (70%) as to why

this was. The three most common reasons being accommodation not found 90 (35%); no local connection 64 (25%) and not eligible for assistance 46 (18%).

Of those “three most common reasons”, only ineligibility due to immigration status is a legitimate basis on which to refuse to provide accommodation to a person that the first respondents have reason to believe may be homeless. “Accommodation not found” and “no local connection” amount to gatekeeping.

21. That a meeting of the second respondent’s Finance and Audit Committee took place on 10 October 2018. A report was prepared for the meeting, headed “Homelessness Strategy – Progress and Update”, by Susanne Millar, Chief Officer, Strategy and Operations. The report notes that the 2014 “Strategic Review” highlighted certain “challenges” facing the first respondent in “delivering effective homelessness services to our most vulnerable citizens”. These included: “A failure to meet statutory duties to provide emergency/temporary accommodation at the point of need resulting in rough sleeping and the voluntary intervention of the Scottish Housing Regulator”; and “A continuing threat of ‘judicial review’ from agencies advocating on behalf of individuals who GCC are struggling to accommodate and the associated reputational damage to the Council.” Susanne Miller issued a further report to the second respondent for its meeting on 7 November 2018. This report was headed: “Homelessness Services Update: Progress On City Centre Hub and Response to Scottish Housing Regulator Inspection”. Section 3.2 of this report is headed: “Scottish Housing Regulator Report (SHR) and Action Plan.” This section begins with the statement: “3.2.1 Since the paper submitted to the IJB on 13th June 2018, outlining the main findings in the SHR Report and Action Plan, a number of actions have

been undertaken as part of our response to the issues identified by the SHR.” There follows a series of paragraphs describing actions taken by the first respondent. However, none of these actions address the ongoing failure of the first respondent to provide accommodation to many homeless applicants, under section 29(1)(a) of the 1987 Act.

22. That Susanne Miller issued a further report to the second respondent for its meeting on 6 February 2019. This report was headed: “Glasgow Rapid Rehousing Transition Plan 2019/20 - 2023/24”. This report recommended that the second respondent: “acknowledge and approve the Rapid Rehousing Transition Plan as outlined in this report...” The adoption of Rapid Rehousing Transition Plans (“RRTPs”) by local authorities, such as the first respondent, follows upon a report published in June 2018 by the Homelessness Rough Sleeping Action Group (“HARSAG”). The recommendations made in the HARSAG report were accepted by the Scottish Government. The purpose of an RRTP is to set out a plan for securing settled housing for homeless households as quickly as possible, thereby reducing the time spent by applicants in interim accommodation. However, the acceptance of the HARSAG recommendations by the Scottish Government, and the adoption of an RRTP, does not remove the duty to provide interim accommodation for homeless applicants, under section 29(1)(a) of the 1987 Act. The adoption of an RRTP will not increase the volume of accommodation available to the first respondents to comply with that duty.

23. The petitioner apprehends that, with the adoption of the RRTP, the focus of the respondents is now on the delivery of that plan. That will not address the first

respondent's failure to provide interim accommodation to many applicants, identified in the SHR Report "Housing People Who are Homeless in Glasgow" (as described at paragraph 18 hereof). As far as the petitioner is aware, the SHR has no current plan to take any further action in relation to that Report, or under its Engagement Plan with the first respondent. The "Glasgow Health & Social Care Partnership Homelessness Strategy 2015 – 2020" has not been reviewed, and is not currently under review. On 8 May 2019, the second respondent agreed to the first respondent's proposal to cut, by £2,600,000, funding for third sector organisations which provide supported accommodation for homeless persons in Glasgow. That will reduce the volume of accommodation available to meet the first respondent's duty under section 29(1)(a). By letter dated 9 May 2019, Kevin Stewart, the Minister for Local Government, Housing and Planning, wrote to Councillor Mhairi Hunter, of the first respondent, expressing his concern about the cut to contracted Homelessness Services in Glasgow. Councillor Hunter's response of 10 May 2019 states:

The savings unanimously agreed by the Integration Joint Board at its meeting on 8 May are part of the modernisation of our homelessness services and represent a disinvestment in outdated forms of support and accommodation...

Glasgow needs to decrease the amount of emergency/supported accommodation in the city. If we do not do that our transition to Rapid Rehousing and Housing First will not be as effective as it needs to be.

To place this decision in context, the reduction of 68 beds out of 974 total interim accommodation in the city represents a reduction of 7 per cent of total capacity...

24. That the petitioner employs Housing Advisors, who provide advice to homeless persons, and advocate for them. The petitioner also operates Shelter Housing Law Service ("SHLS"), which employs solicitors. The petitioner's Housing Advisors

regularly provide assistance to, and advocate for, homeless persons whom the first respondent has failed to accommodate, under section 29(1)(a) of the 1987 Act. In particular, they contact the first respondent to ask that those persons are provided with accommodation. If that is not done, the case is referred to SHLS. It writes to the first respondent asking that accommodation is provided, failing which judicial review proceedings will be raised. It obtains emergency legal aid over for the client. If necessary, it instructs counsel to draft a petition. In these cases, the first respondent makes an offer of accommodation to the client, on receipt of the threat to initiate proceedings, or shortly thereafter. Reference is made to case studies, summarised in a document produced by the petitioner. Other agencies (including charitable agencies) advocate for homeless persons whom the first respondent has failed to accommodate. Law Centres in Glasgow, such as Brown & Co (the Legal Services Agency, Glasgow), and Govan Law Centre provide a service for homeless persons, similar to that provided by SHLS, and achieving the same outcome. However, the combined efforts of those agencies only serve a fraction of the homeless persons that the first respondent turns away. Therefore, those efforts have not been effective to compel the respondents to address the systemic failure to provide interim accommodation to homeless applicants, under section 29(1)(a) of the 1987 Act.

25. That by letter dated 1 July, the petitioner made a request to the first respondent, under the Freedom of Information (Scotland) Act 2002. The requests made in that letter included:

“8. Is temporary accommodation allocated manually by staff or is it by an automated system? Please provide any training materials/directions/instructions associated with same. If an automated system is used, please provide details of the system.

13. How is temporary accommodation allocated when demand exceeds supply on any given day.

18. Please provide a copy of all management instructions and guidance to staff in relation to the allocation of temporary accommodation issued from 1 January 2014 until present.”

The first respondent answered the request by letter dated 22 July. The answers to the foregoing questions were:

“8. Accommodation is allocated manually on the basis of need by [Temporary Accommodation Allocation Team] officers. Please find attached a copy of our draft Allocations Policy.

13. Temporary accommodation allocation is allocated on the basis of homeless need and potential vulnerability.

18. Please see the draft Allocations Policy attached in response to question 8”.

The document to which answers 8 and 18 refer is titled “DRAFT Homelessness Services Temporary Furnished Flat Allocation Policy”. The first section of the document is headed “Principles and Objectives”. This begins with a paragraph which states: “Under the terms of section 29 of the Housing (Scotland) Act 1987...Glasgow City Council has a duty to accommodate an applicant when they present as homeless under specified circumstances.” The document goes on to state that the first “key objective” of the policy is to “Ensure that the most vulnerable applicants are identified and prioritised for [Temporary Furnished Flats].” Paragraph 3.2 states “Glasgow City Council’s Homelessness Service allocations policy prioritises applicants in the following way: 1. Priority banding 2. Qualifying date...3. Management exceptions.” The document goes on to describe three “priority bands”. A number of the bases for priority banding, such as applicants being “vulnerable”; “dependent children-roofless” and “pregnant woman” are grounds on which priority need would have been accorded to an applicant, prior to the abolition of that test, in 2012. Although this document refers

to Temporary Furnished Flats, its opening paragraph, and the first respondent's answers in its letter of 22 July, indicate that this allocations policy applies generally to the first respondent's provision of accommodation under section 29(1)(a) of the 1987 Act. If that is the case, then the policy is unlawful. As hereinbefore described, local authorities are under an obligation to provide interim accommodation under section 29(1)(a), to any person who they have reason to believe may be homeless. There is no legal basis on which to prioritise the allocation of such accommodation, on the grounds of relative need or perceived vulnerability.

26. That, as described in paragraphs 16 and 17 hereof, the first respondent prepared a Homelessness Strategy under section 1 of the 2001 Act. That document identified a "key outcome", being: "Alleviate Homelessness where it does occur". It described a "priority action" in advancing that key outcome, being "Increase the supply of temporary & settled accommodation". It did so in the context of expressly recognising the first respondent's failure, in the past, to discharge its statutory duty to provide interim accommodation to homeless persons. In the foregoing circumstances, the first respondents, and more recently, the respondents together, have failed to advance the "key outcome" or take the "priority action" identified in the Homelessness Strategy. The performance of the first respondent in respect of the duty under section 29(1)(a) has not improved. It is continuing to fail in meeting that duty, in respect of a large number of homeless persons. For all of the reasons given, the first respondent is in breach of its statutory obligations. Moreover, the decision to reduce interim accommodation capacity by 7%, as described in paragraph 23 hereof, is contrary to the priority

action identified in the Homelessness Strategy for the period 2015-2020. In these circumstances the failure of the respondents to take action to address the first respondent's continuing failure to comply with the section 29(1)(a) duty is irrational.

PERMISSION TO PROCEED

27. That the petitioner satisfies section 27B(2) (requirement for permission) of the Court of Session Act 1988. It has an interest in asking the Court to declare that the respondents are failing to perform their statutory duties, and to order the respondents to prepare a policy by which they propose to meet that duty, in the future. The petition has a real prospect of success.

TRANSFERS TO THE UPPER TRIBUNAL

28. That the petition is not subject to a mandatory or discretionary transfer to the Upper Tribunal.

PLEAS IN LAW

- I. The respondents not having in place policies and practices which enable the first respondent to comply with its duty under section 29(1)(a) of the Housing (Scotland) Act 1987, declarator as sought in paragraph 4(i) should be granted.

2. The failure of the respondents to address the first respondent's continuing non-compliance with its duty under section 29(1)(a) of the Housing (Scotland) Act 1987 being irrational, declarator as sought in paragraph 4(ii) should be granted.

3. The failure the respondents to address the first respondent's continuing non-compliance its duty under section 29(1)(a) of the Housing Scotland Act 1987 being irrational, and it being necessary for the respondents to prepare a strategy to enable the first respondent to comply with that duty, an order as sought in paragraph 4(iii) should be granted.

ACCORDING TO JUSTICE, etc.