

Public Interest
Law Centre

Practitioner's Guide – Management Transfers for DA Survivors

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Management Transfers – A Practitioner’s Guide

What is a Management Transfer?

- A survivor with a secure tenancy
- Needs to move because the perpetrator knows where they are living.
- Can transfer the tenancy to a safe property.
- Survivor may either:
 - Want to remain in borough - near support networks; or
 - Need to move outside of the borough due to risk from perpetrator.

Management Transfers – A Practitioner’s Guide

Why is it important to request MTs?

- Little advice or support from social landlords
- Leaves survivors in an unenviable dilemma
- But, survivors can retain security of tenure and reside in safe accommodation
- Please note, MTs take time

Management Transfers – A Practitioner's Guide

Different Scenarios

- Tenancy with Local Authority
- Tenancy with Housing Association

- Survivor wants to remain in borough
- Cross borough transfer

- Temporary accommodation pending transfer

MT Case Study 1 – Local Authority

Case background

- Secure tenant in LA accommodation
- Perpetrator knew location of property
- MT requested within the borough
- LA delayed response for six months
- MT refused due to lack of ‘recent incidents’

MT Case Study 1 – Local Authority

PAP grounds:

i. Unlawful evidential threshold

- Client suffered continued, prolonged and irregular abuse for 20 years
- Code: Should not assess likelihood of threat of DA on past violence
- In any event: irrational to conclude C not at risk
- LA ignored supporting letters from various professionals
- Meanwhile client remains in dangerous home

MT Case Study 1 – Local Authority

ii. Acting contrary to its own housing allocations policy

- Housing policy: Transfers will be agreed where there is a *'high risk to the tenant or their family's safety if they remain in the dwelling/ area.'*
- C satisfied MT policy because of high risk posed by remaining in the property
- Policy also stated: offer made pursuant to 'current housing need'

MT Case Study 1 – Local Authority

iii. Unlawful delay in decision-making

- D was aware of client's circumstances for 6 months
- Delay was unnecessary and unreasonable and therefore unlawful

iv. Acting contrary to PSED, Articles 3 and 14 ECHR

- D forcing C to remain in unsafe property, breach of article 3 and 14
- PSED: D did not display sensitive and careful approach to GBV
- Refusal of MT shows failure to consider effects of remaining in dangerous property

MT Case Study 1 – Local Authority

Outcome:

- Client offered management transfer within the borough
- 3 bedroom property in line with scheme
- Took one year to be offered property
- Client now in safe property with secure tenancy intact

MT Case Study 2 – Housing Association

Case background

- DA survivor lived in HA property with children
- MT requested from HA
- HA initially gatekept
- Formal decision: lack of child contact arrangement and police report
- Client was advised to make a homeless application

MT Case Study 2 – Housing Association

Important Applicable Law for Housing Associations

Public Function

- HAs, as PRPs, may exercise a public function when allocating social housing and will constitute public bodies when doing so. [*R (Weaver) v London and Quadrant Housing Trust* [2009]].
- A decision of a PRP regarding the allocation of social housing can be amenable to judicial review.
- D constitutes a public body: publicly funded, exercises statutory powers, takes the place of Central Government or Local Authorities, and provides a public service.

MT Case Study 2 – Housing Association

Next steps – PAP Grounds:

1. Discriminatory policy. Section 19 Equality Act 2010 provides that:

“(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B’s.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B’s if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim”.

MT Case Study 2 – Housing Association

Section 29 Equality Act 2010 states:

“(1) A person (a “service-provider”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.

(2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—

(a) as to the terms on which A provides the service to B;

(b) by terminating the provision of the service to B;

(c) by subjecting B to any other detriment.

(6) A person must not, in the exercise of a public function that is not the provision of a service to the public or a section of the public, do anything that constitutes discrimination, harassment or victimisation.”

MT Case Study 2 – Housing Association

Discriminatory policy

- In allocating social housing, HA is exercising public function
- Women disproportionately likely to face domestic abuse
- Domestic abuse is often not reported
- Not rational in this context and places survivors at a disadvantage
- Not a proportionate means of achieving a legitimate aim

MT Case Study 2 – Housing Association

- Barriers recognised in the Code:

‘Victims can experience many incidents of abuse before calling the police or reporting it to another agency...’ 21.14

‘... In some cases, corroborative evidence of abuse may not be available, for example, because there were no adult witnesses and/or the applicant was too frightened or ashamed to report incidents to family, friends or the police Housing authorities should not have a blanket approach toward domestic abuse which requires corroborative or police evidence to be provided. [Emphasis added]. .’ 21.24

- Impact: survivor’s sex and DA experience forces her to give up security of tenure

MT Case Study 2 – Housing Association

Outcome:

- Panel reconvened and accepted client's management transfer.
- Client currently in safe and suitable TA waiting for MT.

Management Transfers – Domestic Abuse Act 2021

Impact of the DAA on the ground

- s.79 does not add much in practice:
 - i. Housing Allocation Schemes: like-for-like
 - ii. Discriminatory to offer reduced tenancy

Conclusions

- Survivors remain at risk of domestic abuse OR
 - Lose security of tenure.
 - = Management transfers tackle both issues.
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- Refusal of MTs because they can? That is where we come in.

Thank you and good luck!