GOUGH SQUARE CHAMBERS

TRADING LAW BULLETIN

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FINANCIAL SERVICES

FOS. The Court of Appeal upheld a decision that FOS had been entitled to decide in favour of a complaint concerning the categorization of risk in respect of contracts for differences but also held that an inaccurate approach had been taken in respect of contributing negligence (*Linear Investments Ltd v FOS* [2025] EWCA Civ 1369).

Publicity. The High Court has considered a decision by the FCA as to publicity regarding an investigation (*R(Cit) v FCH* [2025] EWHC 2614 (Admin)).

Penalty Interest. The High Court continued with a hearing as to whether default interested under a loan agreement was an unenforceable penalty. Aspects of an earlier decision were reversed on appeal ([2025] EWCA Civ 721). The matter was remitted to the High Court which held that the default provision was not a penalty *Houssain v London Credit Ltd* ([2025] EWHC 2749 (Ch)).

Mortgages. The Court of Appeal dismissed an appeal by a mortgagor of commercial premises against the refusal to give the mortgagor conduct of the sale (*Fairmont Property Developers v Venus Bridging Ltd* [2025] EWCA Civ 1513).

DATA PROTECTION

Strike Out. The Court of Appeal allowed an appeal against the striking out of most of the 432 claims in a "collective action" relating to the sending to old addresses a pension statement (*Farley v Paymaster* [2026] 2 All ER 414)

DOGS

XL Bully-type dogs. The Court of Appeal upheld a refusal of an application for judicial review of the making of statutory instruments under the Dangerous Dogs Act 1991. The main issue was Section 21 of the Senior Courts Act 1981.

TREES

Sentence. The Court of Appeal upheld a £200,000 fine for felling 132 trees and gave guidance on the issue.

GAMING

Unlicensed Gaming. The High Court considered the position of betting without a licence and illegality (*Soloman v Spence* [2026] EWHC 645(Ch)).

Code of Practice. The Court of Appeal dismissed an appeal against a dismissal of a gambler's claim that the gaming operator was liable to him in negligence and unjust enrichment because it should have known he was a problem gambler. There had been no breach of the Gambling Commission's code of practice but, if there had, that did not result in the gaming contracts being void or illegal (*Gibson v TSE Malta LP (t/a Betfair)* [2025] EWCA Civ 1589).

HOUSING

HMO's. The Upper Tribunal held that a microwave did not constitute "cooking facilities" in deciding if a property was an HMO (*Oxford Hotel Investments Ltd v Great Yarmouth Borough Council* [2025] UKUK 387 (LCC)).