**Appendix 3**

**The Henrietta Barnet Case**

In the case of *The Governing Body of the Henrietta Barnett School v The Hampstead Garden Suburb Institute (1995)* 93 LRG 470,the Institute (the school’s Trustees) had permitted the school to occupy part of its land as a school site for many decades. It had purported to terminate the licence under which the Henrietta Barnett School was occupying the site on 9 months’ notice. It was accepted by the Court that the Institute had the right to terminate at will the licence under which the school occupied the site.

The decision in the case was not about the right of the Institute to terminate the licence, which was accepted, but whether a notice period of 9 months was reasonable at common law. It was decided in the circumstances of this case that the notice period was inadequate. The fact that the peremptory termination of the licence would have an adverse impact on the public was a relevant consideration. The court found that in the absence of an express provision as to notice, a requirement must be implied to give sufficient time to allow the school to make alternative arrangements and to safeguard the public service.

The case identified a gap in the statutory scheme applying at that time. It was as a result of this case that the School Standards and Frameworks Act 1998 (“the SSFA”) includes provision in Section 30 (11) that the period of notice given by the trustees must be reasonable, and in any event not less than 2 years in circumstances where termination of occupation would have the result that it is not reasonably practicable for the school to continue to be conducted on its existing site.