

Ben Hooper

Call: 2000

Academic and professional qualifications

Junior Counsel to the Crown, B Panel (2007 –)
Junior Counsel to the Crown, C Panel (2004 – 2007)

The Inns of Court School of Law (1999 – 2000)
The Peter Taylor Scholarship (Inner Temple, 1999 – 2000)

City University (1998 – 1999)
Major Scholarship (Inner Temple, 1998 – 1999)

Balliol College, Oxford (1994 – 1998)
First Class Honours Degree in Physics and Philosophy
Scholar (1995 – 1998)
Jenkyns Prize (1998), Coolidge Scholarship (1998), Ernest Walker Philosophy Prize (1995)

Areas of Practice

Commercial and regulatory

Particular interest in regulatory work and commercial judicial review. Has acted for the Information Commissioner, the Rail Regulator, the Law Society and Ofcom; together with various regulated companies, including easyJet.

Human Rights

Wide experience of human rights litigation in the domestic courts. Ben is currently acting for the UK government in a significant mental health case that is before the European Court of Human Rights, and is due to appear shortly in the Supreme Court in an appeal concerning Articles 6 and 8 in possession proceedings. Recent work includes a European Court of Human Rights case on interception (*Kennedy*), a Supreme Court case on constitutional reform in the Channel Islands (*Barclay*) and a House of Lords appeal concerning covert surveillance in police stations and prisons (*McE*).

Information law

Regularly instructed in Information Tribunal appeals. Represented the Information Commissioner in the first appeal to the High Court and Court of Appeal under the Freedom of Information Act 2000 (*Sugar*). Also advises and litigates in the data protection field, including in data loss cases. Has considerable litigation experience of RIPA, including in the House of Lords (*McE*) and the Investigatory Powers Tribunal, where he has appeared more frequently than any other counsel.

Public and Administrative law

A broad litigation and advisory practice in public and administrative law. Experienced in many public and administrative law fields, including mental health and prisoner's rights. In 2008, acted for the Speaker of the House of Commons in two separate judicial review claims that raised issues under the Bill of Rights 1689. Previously junior counsel for the Foreign Secretary in his successful defence of a judicial review challenge to the Government's policy on Guantanamo Bay.

Local Government

Experience in a range of local government law fields. Acted for Wandsworth Borough Council in its successful defence of a judicial review claim brought by the local waste disposal authority.

Notable Cases

Kennedy v. UK

European Court of Human Rights, 18 May 2010 (The leading case on the application of Article 8 to RIPA interception, and on the requirements of Article 6 in proceedings before the IPT)

Salford City Council v. Mullen

(2010) NPC 43, CA (Possession proceedings and public law defences)

Gerry Morrissey v. the Information Commissioner and Ofcom

Information Tribunal, 11 January 2010 (Whether the Information Tribunal has jurisdiction to consider public law challenges in cases where reliance is placed on the exemption in s. 44 of FOIA, currently instructed to resist Ofcom's appeal)

BBC v. the Information Commissioner

(2010) EMLR 6, HC (Disclosure of the BBC's financial information under FOIA)

BBC v. Sugar and the Information Commissioner

[2010] 1 All ER 782, HC (The second phase of the Sugar FOIA litigation)

R (Barclay) v. Lord Chancellor

[2009] 3 WLR 1270, SC (An ECHR challenge brought by the Barclay brothers against constitutional reform in the Channel Islands)

R (easyJet) v. Civil Aviation Authority

[2009] EWCA Civ 1361 (Junior counsel for easyJet in its challenge to the price cap set by the CAA for Gatwick airport)

McE v. Prison Service of Northern Ireland

[2009] 1 AC 908 (Covert surveillance of legal consultations in police stations and prisons)

BBC v. Sugar and the Information Commissioner

[2008] 1 WLR 2289, CA (Counsel for the Information Commissioner in the first appeal to reach the Court of Appeal under FOIA)

R (Bradley) v. Secretary of State for Work and Pensions

[2009] QB 114, CA (Intervening on behalf of the Speaker of the House of Commons on issues under the Bill of Rights 1689 and Parliamentary free speech)

Liberty v. the United Kingdom

(2009) 48 EHRR 1 (Article 8 challenge to the UK's interception regime)

Scotland Office v. the Information Commissioner

Information Tribunal, 8 August 2008 (The first Information Tribunal appeal on the Ministerial correspondence exemption in s. 35(1)(b) of FOIA)

R (Al Rawi) v. Secretary of State for the Foreign and Commonwealth Office

[2008] QB 289, CA (Challenge brought by three Guantanamo Bay detainees to the Foreign Secretary's decision not to make a formal request for their release and return)

R (Federation of Tour Operators) v. HM Treasury

[2007] UKHRR 1210, HC (Intervening on behalf of the Speaker of the House of Commons on issues under the Bill of Rights 1689 in a challenge to the doubling of air passenger duty)

R (Munjaz) v. Mersey Care NHS Trust

[2006] 2 AC 148 (A mental health case concerning the Articles 3 and 8 and the use of seclusion)

C v. The Police

Investigatory Powers Tribunal, 14 November 2006 (Counsel for the Home Secretary in the Investigatory Powers Tribunal in the leading case on the meaning of "directed surveillance" in the Regulation of Investigatory Powers Act 2000)

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Esfandiari v. Secretary of State for Work and Pensions

The Times, 29 May 2006 (Junior counsel for the Secretary of State for Work and Pensions in the first Court of Appeal case to consider indirect discrimination under Article 14 of the ECHR)

R. (B) v. Responsible Medical Officer, Broadmoor Hospital

[2005] HRLR 40, CA (Junior counsel for the Secretary of State for Health in a case that concerned whether the compulsory treatment of a mental patient would be compatible with his ECHR rights)

R. (Western Riverside Waste Authority) v. Wandsworth Borough Council

[2005] LGR 846, HC (Junior counsel for Wandsworth in a case that concerned the powers of waste collection authorities to charge for the collection of commercial waste)

R. (Kent Pharmaceuticals) v. The Serious Fraud Office

[2005] 1 WLR 1302, CA (Junior counsel for the Director of the Serious Fraud Office in a case concerning Article 8 of the ECHR and the disclosure of documents between Government departments)

R. v Attorney General, ex parte Rusbridger

[2004] 1 AC 357 (Junior counsel for the Attorney General in his successful appeal to the House of Lords)

R. (T-Mobile (UK) Ltd) v. The Competition Commission

[2003] ACD 300, HC (Junior counsel for the Secretary of State for Trade and Industry as interested party in a challenge brought by various mobile phone companies to a decision of the Competition Commission)

In re Railtrack

[2002] 1 WLR 3002, CA (Junior counsel for the Rail Regulator)

Publications

Co-author (with Sir John Laws) of the chapter on illegality in *Supperstone, Goudie and Walker on Judicial Review* (3rd ed., 2005)

“Proportionality and the form of law”, (2003) 119 LQR 426.