

Clive Lewis QC

QC: 2006

Call: 1987

Professional

Queen's Counsel 2006

Called to the Bar 1987

Practice 1992-

First Counsel to the Welsh Assembly Government 2000-

Vice-Chairman of the Administrative Law Bar Association 2009-

Principal Areas of Practice

Public Law and Judicial Review, European Union Law, Human Rights, Education, Environment, Information Law.

Recent cases include;

AXA General Insurance Ltd and others v. HM Advocate and others

Supreme Court, October 12 2011

[2011] UKSC 46 [2011] 3 WLR 871;

The Damages (Asbestos-related Conditions) (Scotland) Act 2009 was neither outside the competence of the Scottish Parliament nor subject to judicial review on the grounds of irrationality, unreasonableness or arbitrariness Clive Lewis QC appeared for the First Minister of Wales, intervening

Patmalniece v Department for Work and Pensions

Supreme Court A: whether refusal of state pension credit to Latvian present in the UK constituted unlawful discrimination contrary to EU law

Ofcom v Information Commissioner

Supreme Court and Court of Justice of the European Communities: test for disclosure under the Environmental Information Regulations

R (Law Society) v Legal Services Commission

Divisional Court – lawfulness of tender arrangements for contracts for legally aided family law work

R (Brynmawr School) v Welsh Ministers

Interpretation of constitutional statutes - powers of the Welsh Ministers

R (Medical Justice) v Secretary of State for the Home Department

Court of Appeal: procedure for appeals to the Court of Appeal

R (Petsafe Ltd) v Welsh Ministers

Prohibition on use of electric shock collars on dogs – whether contrary to EU law on free movement of goods

Harrow LBC v Ibrahim and Teixeira v Lambeth

ECJ: entitlements of children and spouses of EU nationals to housing

R (SRM Global Fund) v HM Treasury

CA: compatibility of nationalisation of Northern Rock with the right to enjoyment of property guaranteed by Article 1 of the First Protocol to the ECHR

R (Al Saadoon) v Secretary of State for Defence

CA and ECtHR: whether surrender of Iraqi nationals suspected of war crimes compatibility with ECHR

R (Equitable Life Members Action Group) v HM Treasury

Div. Ct.: lawfulness of decision not to accept findings and recommendations of Ombudsman in relation to maladministration in the regulation of Equitable Life

Isle of Anglesey v Welsh Minister

CA: regulation of sea fisheries

Judicial Appointments

Recorder 2003 –
Deputy High Court Judge 2010 -

Publications

Judicial Remedies in Public Law (Sweet & Maxwell) 4th ed. 2009
Editor - "Civil Procedure" ("The White Book")
General Editor Halsbury's Laws of England, Judicial Review
Remedies and the Enforcement of European Community Law (Sweet and Maxwell)
Contributor "Administrative Court Practice" (Butterworths)
Contributor "Education and the Courts (2nd ed.) Jordans.

Other Appointments

2004- Member of the Editorial Board, Public Law
2011- Bencher of the Middle Temple

RECENT CASES INCLUDE:

Judicial Review and Public Law

Ofcom v Information Commissioner

[2010] UKSC 3
Test for disclosure of environmental information under the Environmental Information Regulations

R (Equitable Life Members Action Group) v HM Treasury

[2009] EWHC Admin. 2495
Lawfulness of decision not to accept findings of maladministration in relation to the regulation of Equitable Life

Isle of Anglesey v Welsh Ministers

[2009] 3 W.L.R. 813
Regulation of sea fisheries

R (Bradley) v HM Treasury

[2009] Q.B. 114
Test for determining when government department may reject findings of maladministration by an ombudsman

R (M) v LB of Hammersmith and Fulham

[2008] 1 W.L.R. 545
Duties owed to homeless 16 and 17 year olds

R (Wheeler) v Office of the Prime Minister

[2008] ACD 70
Whether legitimate expectation that referendum would be held before Treaty of Lisbon ratified

R (AM (Cameroon)) v AIT

[2008] 1 W.L.R. 2062
Circumstances in which courts can entertain a claim for judicial review when alternative remedy available

R (F (Mongolia) v Secretary of State for Home Department

[2007] 1 WLR 2523

Challenges to asylum decisions should be way of appeal to the AIT not judicial review

R (Gamesa Energy UK) v National Assembly for Wales

[2006] EWHC 2167 (Admin.)

Whether tender exercise raised issues of public law amenable to judicial review

R (Jackson) v Attorney General

[2006] 1 A.C. 262

Challenge to the validity of the Hunting Act 2004

R (Quintavalle) v Human Fertilisation and Embryology Authority

[2005] 2 A.C. 561

Whether authority could license testing of embryos for implantation to determine if embryo had tissues compatible with existing child suffering genetic disorder

European Convention on Human Rights

R (SRM Global Fund) v H. M. Treasury

[2009] UKHRR 19

Compatibility of nationalisation scheme for Northern Rock with Article 1 First Protocol ECHR

R (Al Saadoon) v Secretary of State for Defence

[2009] 3 W.L.R 957 (CA) and Times Law Reports, 10 March 2010 (ECtHR)

Compatibility of surrender of Iraq nationals with the ECHR

R (Al Sweady) v Secretary of State for Defence

[2010] HRLR 2

Disclosure and judicial review procedure in human rights cases

R (Munjaz) v Merseyside Health Trust and Secretary of State for Health

[2006] 2 A.C. 148

Lawfulness of power to seclude mental health prisoners with Article 3 (right not to be treated in degrading or inhuman manner), Article 5 (right not to be unlawfully detained) and Article 8 (right to respect for private life)

R (Burke) v General Medical Council

[2006] Q.B. 1132

Whether withholding artificial nutrition and water would constitute a breach of Article 2 and 3 ECHR

Barnfather v LB of Islington and Secretary of State for Education and Skills

[2003] 1 W.L.R. 2318

Whether strict liability offences in criminal law compatible with the presumption of innocence in Article 6(2) ECHR

R (O) v Harrow Crown Court and Secretary of State for the Home Department

[2003] 1 W.L.R. 2756

Whether restrictions on bail for those charged for the second time with murder or rape compatible with Article 5 and the right not to be unlawfully detained

Education

R (Chandler) v LB Camden

[2009] BGLR 417

Lawfulness of proposal to establish Academy; whether permissible to have a policy on faith schools

R (Carnell) v Regent's Park College

[2008] ELR 268

Judicial review and universities; whether complaint to Office of Independent Adjudicator was an adequate alternative remedy to judicial review

S v Chapman

[2008] ELR 603

Child with special education needs: claims for damages under the Human Rights Act 1998 and for negligence

R (E) v JFS

[2009] ELR 375

Whether subscription criteria for allocating school places discriminatory if preference given to orthodox Jews

R (P) v Schools Adjudicator

[2007] BGLR 346

Power of Schools Adjudicator to approve closure of school to create new Academy

R (O) v Independent Appeal Panel for London Borough of Tower Hamlets

School exclusion and proper procedure for dealing with related cases

London Oratory School Governing Body v Schools Adjudicator

[2005] ELR 484

Power of Schools Adjudicator to reconsider objections to admissions policy

European Union Law

LB Harrow v Ibrahim; Teixeira v Lambeth LB

ECJ

Entitlements of children and spouses of EU nationals to housing

Patmalniece v Department for Work and Pensions

[2009] 4 All E.R. 738

Whether refusal of state pension credit to Latvian present in the UK constituted unlawful discrimination

Zalewska v Department for Social Development

[2008] 1 WLR 2602

Compatibility of registration scheme for Polish workers in the UK with EU law

R (Gwillim) v Welsh Ministers

[2009] EWHC 2946 (Admin)

Proper interpretation of hardship provisions in the regulations governing claims for subsidy under the Common Agricultural Policy

R (IATA) v Secretary of State for Transport

[2006] ECR-I 403

Validity of provisions governing compensation for air traffic delays

R (Intertanko) v Secretary of State for Transport

Validity of provisions governing marine pollution

R (ABNA) v Food Standards Agency

[2004] Eu. L.R 88

Test for grant of interim injunction to suspend operation of domestic legislation implementing EU Directive

R (Bidar) v Ealing LB and Secretary of State for Education

[2005] Q.B. 812

Entitlement of EU nationals to student loans

Asda Stores v Consorzio del Prosciutto de Parma

[2003] 2 CMLR 639

Industrial property rights and designation of origin; whether ban on slicing Parma ham in the UK compatible with EU law

R on the application of Greenpeace Ltd v Secretary of State for the Environment, Food and Rural Affairs

[2002] 1 W.L.R. 3004

Obligations under the European Union Regulations implementing the Convention on Trade in Endangered Species