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## Aileen McColgann QC

Aileen has a wide practice encompassing public, employment, education and election law and has particular interests in discrimination, equality and human rights law. She has extensive experience in conducting independent investigations for a variety of bodies including FTSE 100 and multinational companies, national charities, national and local public sector organisations, political parties and universities. Aileen also has an active interest in the law relating to information; she advises and litigates on matters including data protection and freedom of information and has significant experience of securing injunctive relief in respect of privacy/ protection from harassment.

Aileen's interests in human rights and discrimination law have been reflected in litigation and investigations concerning the boundaries between free speech and alleged antisemitism and transphobia as well as between religious freedom and anti-discrimination rights. She has advised many organisations on the investigation and management of complaints of sexual harassment/ assault and harassment/ bullying, including at the highest levels.

Aileen has a wide variety of clients from direct access individuals to large corporate and public organisations many of which she has worked with for a number of years. She provides regular guidance and advice to Arts Council England on a very wide range of legal issues and has been involved in a great deal of work for the Equality and Human Rights Commission, the Independent Office for Police Conduct and a variety of local authorities.

Aileen has a distinguished history as an academic and is internationally recognised as a leading academic in discrimination, equality and human rights law. Her academic work has been cited in the ECHR and the domestic courts. She is the former Chair of the Human Rights Lawyers Association (2019-2021); Vice President of the Institute of Employment Rights; a current or former member of the editorial committees of *Public Law*, *European Human Rights Law Review*, *International Journal of Discrimination and the Law* and *Education Law Reports* and former Executive Committee Member of the *Industrial Law Society*. She has been trustee of the *British Institute of Human Rights* and was until 2016 the UK's National Expert on the European Networks of Legal Experts in the Field of Gender Equality and of Experts in the Non-discrimination Field. She has published very widely on human rights, discrimination and employment law.

In 2020 Aileen established Chambers' Equality Law Blog.



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### Professional Summary

Called 2001

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### Contact Details

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Contact Clerks

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## Specialisms

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### Education Law

Aileen's background as an academic gives her a particular insight into disputes arising in the context of higher education. She has appeared in many higher education judicial review challenges for universities and the Office of the Independent Adjudicator. She has undertaken investigations for universities including in relation to sexual harassment and anti-semitism complaints and has provided extensive advice to universities including in relation to disciplinary, grievance sexual harassment and whistleblowing procedures. She intervened in

the Court of Appeal for the Southall Black Sisters and Inspire in *HM Inspector of Education, Children's Services & Skills v IEB of Al-Hijraj School*, a challenge to sex segregation in schools. Aileen regularly appears for claimants and schools in the High Court and tribunal cases. She was editor of the *Education Law Reports* until 2020.

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## Public Law

Aileen has a varied public law practice ranging from challenges by commercial bodies against public authority decision-making, on the one hand, to cases involving police and prison authorities on the other. She appeared for Tate in its successful defence of Tate Modern's viewing gallery, which is awaiting decision by the Supreme Court and intervened for the EHRC in *Big Brother Watch & Ors v UK* (2018). Aileen is regularly instructed by Arts Council England, Tate and the Independent Office for Police Conduct. She has extensive expertise in discrimination law and equality cases and in election law challenges. She has until 2022 been on the editorial committee of *Public Law*.

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## Employment Law

Aileen has a busy employment law practice at employment tribunal level and above. She is regularly instructed in high-value discrimination cases for both claimants and respondents, as well as in victimization and whistleblowing, TUPE, working time, holiday pay and other employment claims and has regularly secured costs awards in ET cases. She has experience in the CAC and of the High Court in employment and related litigation as well as in the EAT and Court of Appeal in employment-related matters.

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## Inquiries and Investigations

As above, Aileen has an extensive investigations practice across a wide range of organisations and subject areas. She was Junior Counsel to the Independent Inquiry on Child Sexual Abuse during 2016- 2016, and in that capacity led the investigations into the Anglican and Roman Catholic Churches. She was also Junior Counsel on the EHRC's Formal Investigation into the BBC's pay practices.

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## Recent/Notable Cases

*Forstater v CGD Europe & Ors* [2021] IRLR 706 (EAT)

*R (Khalsa Academies Trust Ltd) v Secretary of State for Education* [2021] EWHC 2660 (Admin), [2022] ELR 55

*Briant v Information Commissioner* [2021] UKFTT 2020 0305 (First-tier Tribunal, information rights)

*Fearn & Ors v Board of Trustees of the Tate Gallery* [2020] EWCA Civ 104, [2021] 1 All ER 60 (Court of Appeal)

*R (AW) v St George's, University of London* [2020] EWHC 1647 (Admin), [2020] ELR 626 (High Court)

*St George's, University of London v Rafique-Aldawery* [2019] ELR 119, [2018] EWCA Civ 2520 (Court of Appeal)

*R v Medway Council* [2019] EWHC 156 (Admin) (High Court)

*Williamson v Formby* [2019] EWHC 2639 (QB) (High Court)

*Fearn v Tate Gallery Board of Trustees* [2019] EWHC 246 (Ch), [2019] Ch 369 (High Court)

*Synexus Ltd v Fernando* F90LS455 (2019, High Court)

*Ward & Ors v McGovern* HQ18M0026 (2019, High Court)

*Big Brother Watch & Ors v UK* [2018] ECHR 58170/13 (ECtHR)

*R (Thilakawardhana) v OIA* [2018] EWCA Civ 13, [2018] ELR 223 (Court of Appeal)

*HA v University of Wolverhampton* [2018] EWHC 144 (Admin), [2018] ACD 35 (High Court)

*Banwait v Bettany* [2018] EWHC 3263 (QB) (Election Court)

*Cabinet Office v Information Commissioner & Ashton* [2018] UKUT 208 (AAC) (Upper Tribunal)

*Hurnam v Attorney General* [2017] UKPC 33 (Privy Council)

*HM Inspectorate of Education, Children's Services & Skills v IEB of al-Hijraj School* [2017] EWCA Civ 1426, [2018] 1 WLR 1471, [2018] 1 All ER 1024, [2018] IRLR 334, [2018] ELR 25 (Court of Appeal)

*St George's, University of London v Rafique-Aldawery* [2017] EWHC 188 (Admin), [2017] ELR 269 (High Court)

*Tuitt v Birkbeck, University of London* [2017] EWHC 759 (QB) (High Court)

*R (Lidl Ltd) v CAC and GMB* [2017] EWCA Civ 328, [2017] ICR 1145, [2017] IRLR 646 (Court of Appeal)

*Utilitywise Plc v Northern Gas and Power Ltd* [2017] EWHC 2520 (QB) (High Court)

*R (MA & Ors) v SSWP* [2016] UKSC 58, [2016] 1 WLR 4550 (Supreme Court)

*R (Lidl Ltd) v CAC and GMB* [2017] EWCA Civ 328 [2016] EWHC 2040 (Admin), [2016] IRLR 756 (High Court)

*Parkinson v Lewis* [2016] EWHC 725 (QB) (Election Court)

*Donkor v Royal Bank of Scotland* [2016] IRLR 268 (EAT)

*National Union of Journalists v BuzzFeed* Case Number: TUR1/1000(2017) (CAC)

*R (Hunt) v North Somerset Council* [2015] UKSC 51, [2015] 1 WLR 3575 (Supreme Court)

*R (Bibi) v SSHD (Liberty intervening)* [2015] UKSC 68, [2015] 1 WLR 5055 (Supreme Court)

*R (Ryder) v Lord Chancellor* [2015] EWHC 1857 (Admin), [2015] All ER (D) 287 (Jun) (Divisional Court)

*R (Gopikrishna) v OIA* [2015] EWHC 207 (Admin), [2015] ELR 190 (High Court)

*R (Thilakawardhana) v OIA* [2015] EWHC 3285 (Admin), [2015] All ER (D) 195 (Nov) (High Court)

*C v Governing Body of I School* (SEN) [2015] UKUT 217 (AAC) (Upper Tribunal)

*Mayfield Care Ltd & Anor v St Helen's Council* [2015] EWHC 1057 (Admin), [2015] All ER (D) 171 (Apr) (High Court)

*R (Roberts) v Commissioner of Police of the Metropolis & Ors* [2014] 1 WLR 3299 (Court of Appeal)

*R (Hunt) v North Somerset Council* [2014] LGR 1 (Court of Appeal)

*Dhunna v CreditSights Ltd* [2014] EWCA Civ, [2014] ICR 105, [2014] IRLR 953 (Court of Appeal)

*N v Governing Body of a School* [2014] EWHC 1238 (Admin), [2014] ACD 113 (High Court)

*R (AT) v University of Leicester* [2014] EWHC 4593 (Admin) (High Court)

*P v East Sussex County Council* [2014] EWHC 4634 (Admin), [2015] ELR 178 (High Court)

*Burger v OIA* [2013] EWCA Civ 1803 (Court of Appeal)

*R (Mustafa) v OIA* [2013] EWHC 1379 (Admin), [2013] All ER (D) 323 (May) (High Court)

*Eweida & Ors v United Kingdom* (2013) 34 BHRC 519, [2013] IRLR 231 (ECtHR)

*R (Bibi) v SSHD (Liberty intervening)* [2013] EWCA Civ 332, [2013] 3 All ER 778, [2014] 1 WLR 208 (Court of Appeal)

*R (H) v A* [2013] EWHC 2506 (Admin) (High Court)

*A London Borough v B (SEN); R (A London Borough) v FtT; R (B) v Governing Body of a Voluntary Aided Primary School & A London Borough* [2013] UKUT 0347 (AAC) (Upper Tribunal)

*R (Redcar & Cleveland Independent Providers Association) v Redcar & Cleveland BC* [2013] EWHC 4 (Admin) (High Court)

*Redfearn v United Kingdom* (2012) 33 BHRC 713, [2013] IRLR 51 (ECtHR)

*R (Hurley & Anor) v SSBIS* [2012] EWHC 201 (Admin), [2012] All ER (D) 116 (Feb) (Divisional Court)

*R (Care North East Newcastle) v Newcastle CC* [2012] EWHC 2655 (Admin) (High Court)

*R (Hunt) v North Somerset Council* [2012] EWHC 1928 (Admin), [2012] All ER (D) 295 (Jul) (High Court)

*R (AMC) v Arts Council England* [2012] All ER (D) 242 (Jun) (High Court)

*Jivraj v Hashwani* [2011] UKSC 24, [2011] 1 WLR 1872 (Supreme Court)

*R (HRH Sultan of Pahang) v SSHD* [2011] EWCA Civ 616, (2011) Times, 13 June (Court of Appeal)

*R (Chapti & Ors) v SSHD (Liberty intervening)* [2011] EWHC 3370 (Admin) [2012] 2 All ER 653 (High Court)

*R (Hajrula) v London Councils* [2011] EWHC 448 (Admin) (High Court)

*Ladele v Islington London Borough Council* [2009] EWCA Civ 1357, [2010] ICR 532, [2010] 1 WLR 955, [2010]

LGR, [2010] IRLR 211 (Court of Appeal)

*R (N) v North Tyneside BC* [2010] EWCA Civ 135, [2010] All ER (D) 115 (Jun) (Court of Appeal)

*R (E) v Governing Body of JFS* [2009] UKSC 15, [2010] 2 AC

*Rodriguez v Minister of Housing of the Government & Anor* [2009] UKPC 52, [2010] 3 LRC 653 (Privy Council)

*Ladele v Islington LBC* [2009] ICR 387, [2009] LGR 305, [2009] IRLR 154 (EAT)

*LM v Lewisham BC* [2009] UKUT 204 (AAC) (Upper Tribunal)

*R (Kaur & Shah) v Ealing LBC* [2008] EWHC 2062 (Admin) (High Court)

*R (Mohammed) v SSD* [2007] EWCA Civ 1023, (2007) Times, 9 May (Court of Appeal)

*R (Johnson) v Havering LBC; YL v Birmingham CC* [2007] EWCA Civ 26, [2008] QB 1 (Court of Appeal)

*R (Carson) v SSWP* [2005] UKHL 37, [2006] 1 AC 173 (House of Lords)

*Murphy v Slough BC & Anor* [2005] EWCA Civ 122, [2005] ICR 721, [2005] IRLR 382 (Court of Appeal)

*R (Purja & Ors) v Ministry of Defence* [2004] 1 WLR 289 (Court of Appeal)

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## Recommendations

**“She is accessible and provides clear and robust advice on a timely basis”, “She goes that extra mile for her clients”, “She really knows discrimination law and she is very effective in cases in that area”, “Aileen McColgan’s stellar academic background means that she is totally on top of the law, and she draws on that fountain of knowledge to provide comprehensive but commercial advice”, “She is easy to engage with and provides high-quality, commercial and sensible advice”** (Chambers & Partners 2022)

**“Fierce advocate, readily available and approachable to speak about issues as they arise”, “She distils complicated issues into manageable areas. She has a phenomenal ability to cut through swathes of information to get to the heart of the matter and has a genuine partnership approach”, “She knows an awful lot about universities”, “Aileen is able to pick up the matter, and the factual and legal detail, very quickly at the last minute before the final hearing, and does a good job of cross-examining claimants”** (Legal 500 2022)

**“A highly accomplished barrister with an impressive performance in both written advice and advocacy skills”, “Works extremely hard for her clients and her advice is always commercial”, “Her work on complex pleadings has been exceptionally good”, “Aileen is an absolute star. She is quick to understand issues and to provide advice in a succinct and clear manner. She has an ability to break down legal language and to address matters in a manner that is easily understandable”** (Legal 500 2021)

**“She is well versed in discrimination law and extremely knowledgeable in the area”, “Aileen is very knowledgeable and provides clear and practical advice”, “She is very calm, thorough and logical on her feet with a sharp awareness of the judge’s thinking. A barrister with an excellent client manner, she’s always available and prompt to respond to any needs for urgent advice”, “An expert in discrimination law, who is very, very bright.”** (Chambers & Partners 2019)

**“A tenacious advocate with a reassuring manner”, “She is calm, dependable and sensible and is wonderful on women’s rights”, “She has many strengths and is plainly expert in her field”, “Hugely authoritative and well versed in the law. A great advocate.”** (Legal 500 2018)

**“One of the best counsels on higher education institution matters ... often a scramble to instruct her first. She knows the area inside out and is impressive on paper and on her feet. Very responsive, pragmatic and easy to work with, she sets the bar high”, “Technically excellent, always available and with a pragmatic approach.” “She shows a real understanding of discrimination law and is clear, impressive and persuasive.”** (Chambers & Partners 2018)

**“Provides insightful and penetrating analyses”, “Authoritative in discrimination law and a great advocate for women”, “A true expert in school disputes, who impresses clients effortlessly”** (Legal 500 2017)

**“A recognised expert in the fields of education and discrimination law, and an excellent advocate”, “very responsive, highly pragmatic, and ha[ving] a deep and outstanding knowledge**

of the law”, “Known for her excellent technical knowledge of employment law ... highly praised for her client service”, “certainly knows her onions when it comes to discrimination and jurisdictional questions”; “Very technical, very client-friendly and highly responsive” (Chambers & Partners 2016)

“Providing insightful and pragmatic advice” and “Very user-friendly” (Legal 500 2015)  
“attentive, client friendly, extremely thorough and straight-talking” (Chambers & Partners 2015)  
“Easy to work with and always on top of her case” (Legal 500 2014)

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## Books

*Special Educational Needs and Disability Discrimination in Schools* (LAG: 2017) with Sarah Hannett and Elizabeth Prochaska

*Labour Law* (Cambridge University Press, 2019) with Hugh Collins and Keith Ewing (2<sup>nd</sup> ed)

*Discrimination, Equality and the Law* (Hart: 2014)

*Labour Law* (with H Collins and KD Ewing), Cambridge University Press: 2019 (2nd ed) and 2012 (1st ed)

*Labour Law: Cases and Materials* (with H Collins and KD Ewing), Hart: 2005 (2nd ed) and 2000 (1st ed)

*Discrimination Law: Text, Cases and Materials* (Hart: 2005 (2nd ed) and 2000 (1st ed))

*Discrimination Law Handbook*(ed.) (LAG, 2005 (2nd ed) and 2002 (1st ed))

*Equality and Diversity* (ed), (London: Institute of Employment Rights, 2003)

*Women under the Law; the False Promise of Human Rights* (Essex: Longman, 1999)

*Just Wages For Women* (Clarendon Press, 1997)

*The Future of Labour Law* (ed) (Mansell, 1996)

*The Case For Taking the 'Date' out of Rape* (London: Pandora, 1996)

*Pay Equity – Just Wages for Women?* (London, Institute of Employment Rights, 1994) With K.D. Ewing, *Law at Work* (2nd ed, London, UNISON Education and Training, 1994)

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## Recent Articles/Chapters in Books

“Undue Spiritual Influence: A Historical Analysis” (2017) 28 *King's College Law Journal* 279

“Reporting Public Protest and Events” in G Millar and A Scott, *Newsgathering: Law, Regulation and the Public Interest* (OUP, 2016)

“Britain Alone! The Implications And Consequences of UK Exit from the EU: Social Policies”, in P Birkinshaw and A Biondi, *The Implications And Consequences of UK Exit from the EU* (Wolters, Kluwer, 2016)

“Litigating the Public Sector Equality Duty: The Story So Far” (2015) 35 *Oxford Journal of Legal Studies* 453

“Religion and (in)equality in the European Framework”, in L. Zucca and C Ungureanu, *Law State and Religion and in the New Europe: Debates and Dilemmas* (Cambridge University Press, 2012)

“Equality and Multiculturalism” [2011] *Current Legal Problems* 1

“Lessons from the Past? Northern Ireland, Terrorism now and then and the Human Rights Act” in T. Campbell, K.D. Ewing and A. Tomkins, *Rescuing Human Rights* (OUP, 2011)

“*James v Eastleigh*” in Hunter R., McGlynn C. and Rackley, E., *Feminist Judgments: From Theory to Practice* (Oxford, Hart, 2010)

“Class wars? Religion and (In) equality in the Workplace” (2009) 38 *Industrial Law Journal* 1-29

Chapters on Article 14 and domestic discrimination provisions in S. Bailey and N. Taylor, Bailey, Harris & Jones: *Civil Liberties Cases, Materials and Commentary* (6th ed OUP, 2009)

“Prohibitions against discrimination and Integration of Welfare Functions into EU Law: Potential Pitfalls?” in U. Neergaard, R. Nielsen & L. Roseberry (eds.), *Integrating Welfare Functions into EU Law: From Rome to Lisbon* (DJOF Forlag, Copenhagen, 2009)

Contributor to R. Clayton and H. Tomlinson, *The Law of Human Rights* (2nd ed, OUP, 2009)

Chapter on Article 14 in M. Janis, R. Kay and A. Bradley, *European Human Rights Law: Text and Materials* (3rd ed, OUP, 2008)

“Harassment” (Chapter 4) in D. Schiek, L. Waddington and M. Bell (eds.) *Cases, Materials and Text on National, Supranational and International Non-Discrimination Law* (Oxford, Hart Publishing, 2007)

“Reconfiguring Discrimination Law” [2007] *Public Law* 74-94

“Cracking the Comparator Problem, ‘Equal’ Treatment and the role of Comparisons” [2006]

*European Human Rights Law Review* 650 – 677

“Do Privacy Rights Disappear in the Workplace?” (2003) *European Human Rights Law Review* 120-140

“Principles of Equality and Protection from Discrimination in International Human Rights Law” (2003) *European Human Rights Law Review* 157-175

“Discrimination Law and the Human Rights Act 1998” in T. Campbell, K.D. Ewing and A. Tomkins (eds), *Sceptical Approaches to Human Rights* (Oxford: Oxford University Press, 2001)

“Women and the Human Rights Act” (2000) 51(3) *Northern Ireland Law Quarterly* “Regulating Pay Discrimination” in H. Collins, P. Davies and R. Rideout (eds.), *Legal Regulation of the Employment Relation* (Kluwer, 2000)

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## Speeches

Aileen is a frequent speaker at conferences and seminars both academic and practitioner. She regularly addresses European audiences and has given lectures and seminars in Japan, New Zealand, Singapore, Hong Kong, Belgium, Turkey, Croatia, Austria, Germany and elsewhere as well as, domestically, to the Industrial Law Society, the Discrimination Law Association, the Employment Lawyers’ Association and the Institute of Employment Rights on a wide variety of subjects including equal pay, discrimination/ equality, privacy, data protection and human rights. She has also delivered extensive equality training to regulatory bodies, commercial organisations and judges.

Aileen accepts instructions under Standard Contractual Terms, details of which can be found on our website under Code of Conduct.



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