
Aileen McColgan QC

Aileen specialises mainly in public and employment law and has particular interests in education matters and in discrimination, equality and human rights law. She has significant expertise in election law and in disputes concerning political parties, as well as in advising political parties on procedural matters. Aileen also has an active interest in the law relating to information; she advises 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 conducts internal inquiries across a wide range of public and private sector bodies including in relation to alleged antisemitism, sexual harassment/ assault and harassment/ bullying. She is also extensively involved in advisory and training work, in particular on human rights, discrimination/ equality and employment law. She was appointed to the Equality and Human Rights Commission's Panel of Preferred Counsel in 2019 having also been on the Commission's previous panels.

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 member of the editorial committees of *Public Law*, *European Human Rights Law Review* and the *International Journal of Discrimination and the Law*. She was formerly editor of the *Education Law Reports*, and Executive Committee Member of the *Industrial Law Society* and 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 set up Chambers' Equality Law Blog.

Specialisms

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 the Office of the Independent Adjudicator and higher education institutions, including in the Court of Appeal in *St George's, University of London v Rafique-Aldawery* [2018] EWCA Civ 2520, [2019] ELR 119 and *R (Thilakawardhana) v OIA* [2018] EWCA Civ 13, [2018] ELR 223. She has provided extensive advice in relation to internal matters including disciplinary, grievance and whistleblowing procedure. 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 (see for example *R v Medway Council* [2019] EWHC 156 (Admin), which involved a successful challenge by a school to a local authority's EHCP) as well as in tribunal cases. She is involved in extensive advisory work in the sphere of education including in relation to sexual harassment procedures, allegations of antisemitism and the application of the Prevent duty as well as on wider questions of freedom of expression. She was editor of the *Education Law Reports* until 2020.



Professional Summary

Called 2001
Appointed QC 2020

Contact Details

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Contact Clerks

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 the Tate Modern viewing gallery (*Fearn v Board of Trustees of the Tate Gallery* [2019] EWHC 246, [2019] Ch 369 and [2020] EWCA Civ 104, [2020] 2 WLR 1081) and intervened for the EHRC in *Ten Human Rights Organisations v the UK* (2019). Aileen is regularly instructed by Arts Council England, Tate and the IOPC. She has extensive expertise in discrimination law and equality cases and in election law challenges. She is on the editorial committee of *Public Law*.

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. In *Mannix v CAST* (2019) she secured findings that the CEO of one of the UK's largest Multi-academy Trusts had been unfairly dismissed by reason of the interference of the Bishop of Plymouth. She secured costs in this and other 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 and has appeared for the EHRC in a number of employment cases. She intervened in the Supreme Court in *Jivraj v Hashwani* as well as for the EHRC and for Liberty in a variety of employment-related cases in the domestic courts and the ECHR.

Inquiries

Aileen 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 Junior Counsel on the EHRC's Formal Investigation into the BBC's pay practices and she undertakes extensive inquiries for private and public sector organisations.

Recent/Notable Cases

Discrimination/ Equality

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)

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

R (Bibi) v SSHD (Liberty intervening) [2015] UKSC 68, [2015] 1 WLR 5055 (Supreme Court); [2013] EWCA Civ 332, [2013] 3 All ER 778, [2014] 1 WLR 208 (Court of Appeal); [2011] EWHC 3370 (Admin) [2012] 2 All ER 653 (High Court)

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

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

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)

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

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

Ladele v Islington London Borough Council [2010] ICR 532 (Court of Appeal)

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

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

Education

R (AW) v St George's, University of London [2020] EWHC 1647 (Admin), QBD (Admin Ct), June 25 2020, [2020] ELR 626

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

St George's, University of London v Rafique-Aldawery [2019] ELR 119, [2018] EWCA Civ 2520 (Court of Appeal); [2017] EWHC 188 (Admin), [2017] ELR 269 (High Court)

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

R (Thilakawardhana) v OIA [2018] EWCA Civ 13, [2018] ELR 223 (Court of Appeal); [2015] EWHC 3285 (Admin), [2015] All ER (D) 195 (Nov) (High Court)

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

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)

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

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

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)

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

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

R (E) v Governing Body of JFS [2009] UKSC 15, [2010] 2 AC 728 (Supreme Court)

Elections/ political parties

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

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

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

Employment

R (Lidl Ltd) v CAC and GMB [2017] EWCA Civ 328, [2017] ICR 1145, [2017] IRLR 646 (Court of Appeal); [2016] EWHC 2040 (Admin), [2016] IRLR 756 (High Court)

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

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

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

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

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

Ladele v Islington LBC [2009] EWCA Civ 1357, [2010] ICR 532, [2010] 1 WLR 955, [2010] LGR, [2010] IRLR 211 (Court of Appeal); [2009] ICR 387, [2009] LGR 305, [2009] IRLR 154 (EAT)

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

Hyde & Anor v Planned Maintenance Engineering Ltd UKEAT/0408/12/GE, [2013] All ER (D) 29 (Oct) (EAT)

Brain v Remploy Ltd UKEAT/0465/10/0203, [2011] All ER (D) 143 (Mar) (EAT)

Miller v Bellway Homes Ltd UKEAT/0309/09/CEA (EAT)

Human rights

Fearn v Tate Gallery Board of Trustees [2020] EWCA Civ 104, [2020] 2 WLR 108 (Court of Appeal); [2019] EWHC 246 (Ch), [2019] Ch 369 (High Court)

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

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

R (Bibi) v SSHD (Liberty intervening) [2015] UKSC 68, [2015] 1 WLR 5055 (Supreme Court); [2013] EWCA Civ 332, [2013] 3 All ER 778, [2014] 1 WLR 208 (Court of Appeal); [2011] EWHC 3370 (Admin) [2012] 2 All ER 653 (High Court)

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

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

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

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

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)

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

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

Information

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

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

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

Synexus Ltd v Fernando F90LS455 (2019, High Court)

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

Miscellaneous (costs)

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

R (Gopikrishna) v Office of Independent Adjudicator for Higher Education [2015] EWHC 1224 (Admin), [2016] 5 Costs LO 74 (High Court)

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

Other public law

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

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

R (Hunt) v North Somerset Council [2014] LGR 1 (Court of Appeal); [2012] EWHC 1928 (Admin), [2012] All ER (D) 295 (Jul) (High Court)

R (Members of Care North East Northumberland) v Northumberland CC [2013] EWHC 234 (Admin), [2013] LGR 265 (High Court)

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

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

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

Recommendations

“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)

“Provid[ing] 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)

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 (2nd 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)

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)

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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