
Ben Mitchell

Ben practises across all of Chambers' practice areas, focusing on public, environmental, education, employment, information and procurement law.

Ben is a member of the Equality and Human Rights Commission's panel of counsel.

Before coming to the Bar, Ben taught law at Trinity College Dublin and Queen Mary University of London. He completed a PhD in education, equality and human rights law in 2016 at Trinity College Dublin.



Professional Summary

Called 2017 England & Wales
Called 2019 Ireland

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Clerk Hannah Rayner

[Contact Clerks](#)

Specialisms

Public Law and Human Rights

Ben regularly appears in judicial review proceedings and advises public bodies, NGOs and individuals on issues of public law and human rights, especially in cases raising equality, education, and environmental issues. He has experience of urgent and politically sensitive judicial reviews having been involved in several cases relating to the Government's response to the Covid-19 Pandemic.

Recent and ongoing matters include:

- *R (Adiatu) v HM Treasury* [2020] EWHC 1554 (Admin), [2020] IRLR 658: acting for the Defendant in a challenge to the furlough scheme (Coronavirus Job Retention Scheme) and statutory sick pay on the grounds of discrimination under EU law and the ECHR and compliance with the public sector equality duty, led by Julian Milford QC and Rupert Paines.
- *R (Jackson) v Secretary of State for Work and Pensions* [2020] 1 W.L.R. 1441, [2020] EWHC 183 (Admin): acting for the Defendant in a claim of discrimination contrary to Art.14 of the ECHR on the ground of marital/civil partnership status in relation to social welfare entitlements, led by Julian Milford.
- Case T-141/19 *Sabo and Others v Parliament and Council* (The EU Biomass Case): Acting for the Claimants (a number of individuals and environmental NGOs from across the EU and the USA) in a challenge to the EU's support for the forest biomass industry on the basis of the human rights and environmental protection principles in the EU Treaties.
- *R (Millstone) v Secretary of State for Business, Energy and Industrial Strategy*: Acting for the Claimant in the High Court and Court of Appeal in a challenge to the construction of an incinerator on environmental and administrative law grounds.
- *R (Wood) v Office of the Independent Adjudicator for Higher Education*: Acting for a university in an application for judicial review relating to its handling of a student's complaint.

Ben has particular interest in strategic litigation and public interest law in the fields of equality, education and environmental protection. This builds upon his research before coming to the Bar, which addressed the use of law and litigation by NGOs and community groups.

Environmental Law

Ben regularly acts for and advises individuals and environmental NGOs who aim to improve environmental protection. He has a particular interest in working closely with campaigners to identify targeted challenges relating to climate change and habitat protection. Recent cases

include:

- Case T-141/19 *Sabo and Others v Parliament and Council* (The EU Biomass Case): Acting for the Claimants (a number of individuals and environmental NGOs from across the EU and the USA) in a challenge to the EU's support for the forest biomass industry on the basis of the human rights and environmental protection principles in the EU Treaties.
- *R (Millstone) v Secretary of State for Business, Energy and Industrial Strategy*: Acting for the Claimant in the High Court and Court of Appeal in a challenge to the construction of an incinerator on environmental and administrative law grounds.

Ben also has significant experience of acting for the Information Commissioner's Office before the Tribunals in cases applying the Environmental Information Regulations. Recent cases of note include:

- *Cabinet Office v ICO and Greenpeace EA/2018/0270*, in which the Tribunal ordered the partial disclosure of a report into the shale gas industry in the UK.

Education Law

Ben has a wide education law practice and regularly accepts instructions from universities, schools, parents, students and local authorities.

He has acted for a large number of universities in cases brought by students alleging discrimination and breach of academic regulations. Ben also has significant experience of appearing in special education needs (SEN) cases before the First-tier Tribunal (SENDIST) and exclusion cases before Independent Review Panels. Ben volunteers as a barrister mentor with the School Exclusion Project.

Ben also has a strong advisory practice, having advised a number of universities, school, local authorities and individuals on education law issues, including:

- Various academy issues, including on the provision of funding
- Policies and procedures on permanent exclusion from school and on the legality of "managed moves"
- The legality of school closures
- Complaints to the Office of the Independent Adjudicator for Higher Education (OIA)

During pupillage, Ben assisted Julian Milford when he successfully defended Oxford University in the High Court case, *Siddiqui v University of Oxford* [2018] EWHC 184. This was the first domestic case alleging negligent teaching at a university to be considered at full trial in the High Court.

Building on his time working in academia, Ben has provided training in the law relating to SEN to clients.

Employment Law

Ben regularly represents employees and employers in all areas of employment law. He has particular expertise in cases of discrimination, harassment, victimisation and other causes of action under the Equality Act 2010.

Ben also has experience of advising and appearing in cases concerning complex issues in employment law, including questions of:

- Holiday pay and annual leave
- The Employment Tribunal's territorial jurisdiction
- Whistleblowing
- Transfer of undertakings (TUPE)
- Constructive, unfair, wrongful and discriminatory dismissal
- Breach of contract, including the term of mutual trust and confidence

Recent cases include:

- *R (Adiatu) v HM Treasury* [2020] EWHC 1554 (Admin), [2020] IRLR 658: acting for the Defendant in a challenge to the furlough scheme (Coronavirus Job Retention Scheme) and statutory sick pay on the grounds of discrimination under EU law and the ECHR and compliance with the public sector equality duty, led by Julian Milford QC and Rupert Paines.

Data Protection, Information and Media Law

Ben is regularly instructed in matters under the Data Protection Act, GDPR, PECR and the Freedom of Information Act.

Ben often appears for the Information Commissioner (ICO) including in matters relating to:

- Challenges to fines under Monetary Penalty Notices, Enforcement Notice, Information
- Notices and Decision Notices under Data Protection Acts, the General Data
- Protection Regulation (GDPR) and the Privacy and Electronic Communications
- Regulations (PECR)
- The Freedom of Information Act (FOIA)
- The Environmental Information Regulations (EIR).

Recent cases of note include:

- *Facebook v ICO* EA/2018/0256, acting for the Commissioner in the appeal by Facebook against the Monetary Penalty Notice imposed in relation to the 'Cambridge Analytica' matter, led by Timothy Pitt-Payne QC and Rupert Paines.
- *Our Vault Ltd v ICO* [2019] UKUT 369 (AAC), in which the First-tier and Upper Tribunals dismissed an appeal against a PECR fine linked to direct marketing calls.
- *Cabinet Office v ICO and Greenpeace* EA/2018/0270, in which the Tribunal ordered the partial disclosure of a report by the Cabinet Office into the shale gas industry in the UK.
- *Automotive Software Solutions Ltd v ICO* EA/2019/0083 and *Agnew v ICO and North Hertfordshire DC* EA/2019/0025, in both of which the Tribunal held that number plates (VRMs) constitute personal data.

Ben also often acts for companies, employers and other data controllers defending damages claims relating to data breaches and data subject rights, such as subject access requests. He regularly advises on tactical steps to minimise the costs and inconvenience to businesses and organisations caused by these claims.

Public Procurement and State Aid

Ben has considerable experience of the application of the procurement and state aid rules.

Ben has been instructed in a number of procurement matters by economic operators and contracting authorities, including:

- Acting for TfL (led by Jason Coppel QC and Joseph Barrett) in *Iridium Concesiones De Infraestructuras, S.A. and Ors v Transport for London* (TCC).
- Advising on limitation and merits and assisting with the preparation of pre-action correspondence for an unsuccessful tenderer considering a challenge to a procurement award.

Education

PhD in Law, Trinity College Dublin – Social Class, Poverty and the Education System: Tackling Inequality Through Constitutional Public Interest Law

BCL, University of Oxford, Balliol College – Distinction

Awards

Lord Mansfield Scholarship (Lincoln's Inn)

Lord Bowen Scholarship (Lincoln's Inn)

Hardwicke Entrance Exhibition (Lincoln's Inn)

Ussher PhD Fellowship (Trinity College Dublin)

Foley-Bejar Scholarship (Balliol College, Oxford)

Julian Prize for Second Place overall in LLB class (Trinity College Dublin)

Scholar of Trinity College Dublin

Entrance Exhibition (Trinity College Dublin)



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