

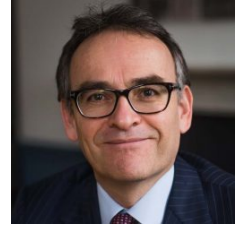
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## Clive Sheldon KC

Clive is a Leading Silk in the fields of Administrative & Public Law, Employment Law, Education Law and Local Government Law, with particular expertise on the cross-over between employment law and public law. Clive is regularly instructed in very high profile matters for government departments, local authorities as well as individuals and corporations. He appears often in the Supreme Court and Court of Appeal.

In March 2021, Clive completed the *Independent Review into Child Sexual Abuse in Football: 1970-2005* for the Football Association (“the Sheldon Report”). In May 2023, Clive completed the *Report of the Armoured Cavalry Programme (Ajax) Lessons Learned Review* for the Secretary of State for Defence (“the Ajax Review”).

Clive sits part-time in the Administrative Court, King’s Bench Division and the Employment Appeal Tribunal as a Deputy High Court judge.



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### Professional Summary

Called 1991  
Appointed KC 2011

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### Contact Details

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Clerk Michael Smith  
Clerk Thomas Belcher  
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## Specialisms

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### Education

Clive is recognised by Chambers and Partners as a Band 1 Silk in Education law. He advises and represents students, schools, local authorities and universities in a wide range of education matters. Most recently, Clive represented John Platt in the Supreme Court case concerning term-time holidays.

Examples of Clive’s work include:

#### **Secretary of State for Education v National Union of Teachers**

Represented Secretary of State in challenge to strike action by sixth-form college teachers

#### **X v Governing Body of a School**

Represented governing body in disability discrimination case concerning a seven-year-old child excluded from school after repeated assaults on staff and pupils.

#### **R (Governing Body of Uplands Junior School) v Leicester City Council**

Represented the local authority in challenge to its use of intervention powers

#### **R (Lewisham LBC) v. AQA**

Represented coalition of local authorities, teachers’ unions, schools and pupils in challenge to GCSE English grading

#### **R (Moyses) v Secretary of State for Education**

Represented the Secretary of State in challenge to academy conversion

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### Employment

Clive advises and represents parties in a wide range of employment disputes. Clive specialises in high profile discrimination claims for employers and employees, as well as disputes involving senior executives and high ranking public office holders. Clive is currently representing 43 police forces in defence of discrimination claims from several thousand police officers relating to the introduction of new pension arrangements.

Examples of Clive's work include:

**Crane v. DEFRA**

Represented a government department in a variations of contracts dispute: does continuation of working without raising objections following a variation to their employment contracts give rise to an inference that they had accepted the variation

**Dizaei v. Metropolitan Police Authority**

Represented police authority in defence of discrimination and victimisation claims by former Commander Ali Dizaei

**Windle v. Secretary of State for Justice**

Represented government department in employment tribunal, EAT and Court of Appeal in test case challenge by foreign language interpreters in the court system: were they 'employees' for discrimination purposes

**Secretary of State for Education v National Union of Teachers**

Represented Secretary of State in challenge to strike action by sixth-form college teachers

**Jarrett v. Essex County Council**

Overtaken finding of race discrimination and victimisation against local authority legal department

**Health and Community Care:**

Clive has particular expertise in health authority reorganisation matters, and ordinary residence and funding disputes for community care. Clive is currently acting for the Secretary of State for Health in *Forge Care*, the Supreme Court case concerning the allocation of responsibility between health and local authority for work carried out in nursing homes.

Examples of Clive's work include:

**R (Cornwall Council) v Secretary of State for Health**

Represented the government in the leading case in the Supreme Court concerning the test for determining 'ordinary residence' in the community care field

**R(Justice for Health) v. Secretary of State for Health**

Represented the government in the 'junior doctors' litigation

**R(Hartlepool Borough Council) v. North Tees and Hartlepool NHS Foundation Trust**

Represented the local authority in challenge to the reconfiguration of fertility treatment

**R (Ealing London Borough Council) v NHS England**

Represented the local authority in a challenge to the reconfiguration of health services in North West London.

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## Human Rights

Clive regularly advises and represents parties in a wide range of human rights matters. Clive appeared recently in the Supreme Court on behalf of the Department for Communities and Local Government in a case concerning Article 6 in the homelessness sphere.

Examples of Clive's work include:

**R (Jwanczuk) v Secretary of State for Work and Pensions**

[2022] EWHC 2298 (Admin); Admin Ct, September 7 2022 [2022] ACD 127

The 'contribution condition' for bereavement support payment in the Pensions Act 2014, which required an applicant's deceased spouse or civil partner to have paid certain national insurance contributions during their working life, was in breach of the ECHR.

**R (SG) v Secretary of State for Work and Pensions**

Represented the Government in the Court of Appeal and the Supreme Court in the 'benefit cap' challenge: Article 1 Protocol 1, read with Article 14

### **R (Birks) v Commissioner of Police of the Metropolis**

Represented the Commissioner in challenge to decision preventing a police constable from retiring so as to take up his vocation as a priest, as police constable was subject to disciplinary investigation for a death in custody: clash between Article 2 and Article 8.

### **R (Keep Streets Live Campaign Ltd) v Camden London Borough Council**

Represented the local authority in challenge to its decision to introduce a licensing scheme for buskers under the London Local Authorities Act 2000: Article 10.

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## **Mediation & Arbitration**

Clive is a CEDR trained mediator. He conducts commercial and public law mediations.

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## **Professional Discipline & Regulatory**

Clive advises and represents a broad range of regulators in professional disciplinary matters.

Recent cases have included defending judicial review proceedings against the General Dental Council, the Bar Standards Board, and the Chief Constable of Wiltshire.

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## **Public**

Clive is well known for his public law work, advising and representing both claimants and respondents. Clive regularly appears in the Court of Appeal and Supreme Court in public law matters, including the leading case on consultation: **Moseley v. LB Haringey**.

Examples of Clive's work:

### **R (Timson) v Secretary of State for Work and Pensions**

[2022] EWHC 2392 (Admin); KBD (Admin Ct), September 23 2022 [2022] ACD 124

Guidance issued by the Secretary of State in respect of deductions from social security benefits was unlawful.

### **R (Jwanczuk) v Secretary of State for Work and Pensions**

[2022] EWHC 2298 (Admin); Admin Ct, September 7 2022 [2022] ACD 127

The 'contribution condition' for bereavement support payment in the Pensions Act 2014, which required an applicant's deceased spouse or civil partner to have paid certain national insurance contributions during their working life, was in breach of the ECHR.

### **Poshteh v Kensington and Chelsea Royal LBC**

[2017] UKSC 36; SC, May 10 2017; [2017] 2 WLR 1417

Determination of application for accommodation as homeless person – Whether applicant entitled on review to article 6 procedural protections.

CS and TC appeared for the Secretary of State for Communities and Local Government, intervening.

### **R(Justice for Health) v. Secretary of State for Health**

Represented the government in the 'junior doctors' litigation

### **R (Sumpter) v Secretary of State for Work and Pensions**

Represented the government in the Administrative Court and the Court of Appeal in a challenge to the consultation process for the introduction of the PIP (Personal Independent Payment) scheme, in place of Disability Living Allowance

### **(Croydon Property Forum Ltd) v Croydon**

Represented the local authority in defence of its selective Licensing scheme for landlords

### **(Logan) v Havering LBC**

Represented the local authority in defence of its Council tax support scheme: scheme was not discriminatory on grounds of age or disability.

### **R (Commissioner of Police of the Metropolis) v Independent Police Complaints Commission**

Represented the Commissioner in the Administrative Court and the Court of Appeal in a challenge to a decision of the IPCC to reopen disciplinary action against a police officer: was the IPCC's decision irrevocable/'functus officio'.

### **(Enfield LBC) v Secretary of State for Transport**

Represented the government in the Administrative Court and the Court of Appeal in defence of its decision to tender a railway franchise

### **R(London Borough of Islington) v. Transport for London**

Represented the local authority in its successful challenge to TfL's decision to close Caledonian Road underground station for lift refurbishment

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## **Recommendations**

"He's tenacious, quick and sharp on his feet." **Chambers and Partners 2022**

"An excellent advocate who is very clear, measured and reasonable." **Chambers and Partners 2022**

"A truly first-class barrister." **Chambers and Partners 2022**

"A master of his profession." **Chambers and Partners 2022**

"Superb advocate, able to get to the core issues very quickly and gives clients the advice they need to hear" **Legal 500**

"Adaptable and hardworking, he is now firmly established as a leading silk with the ability and experience to take on the most technically complex case." **Legal 500**

"Clive is very tenacious with a particularly assertive and effective style of advocacy." **Legal 500**

"Clive is a very clever barrister who is able to explain difficult legal concepts in a simple way." **Chambers and Partners**

"Deals with cases extremely effectively. Uncompromising, but always fair, he shows extraordinary attention to detail." **Chambers and Partners**

"Clive is really great – he's sensible, pragmatic and always makes good points." **Chambers and Partners**

"A highly effective silk and a powerful but very pleasant opponent." **Legal 500**

"Robust and persuasive in both oral and written submissions. Very collegiate approach and good with the client." **Chambers and Partners**

"His written opinions are very clear, he has a very good brain cutting through to what the points are and he provides very clear advice and guidance. He is a very clever man." **Chambers and Partners**

"He's got a brilliant legal mind, and takes a very practical approach to how problems can be addressed. The way in which he presents his arguments to the court is absolutely fantastic." **Chambers and Partners**

"Clive is brilliant. He's a heavy hitter, he cuts through the detail and gives practical advice. He is very intelligent and is measured in his approach." **Chambers and Partners**

"He is an excellent problem solver who shows good judgement in complex and sensitive matters." **Chambers and Partners**

"A very good, hard-working silk." **Chambers and Partners**

"Unfailingly brilliant, knowledgeable, user-friendly and supportive." **Chambers and Partners**

"A softly spoken but highly effective silk" **Legal 500**

"He is reliable and clear, and displays authoritative intelligence" **Legal 500**

“He is great on detail and is a very cerebral, academic lawyer.” **Chambers and Partners**

“He sees the bigger picture from the client’s point of view.” **Legal 500**

“A go-to counsel for anything complicated and urgent.” **Legal 500**

“Very approachable and down to earth. Great at explaining tricky legal situations simply to lay clients, he inspires confidence and makes people feel looked after.” **Chambers and Partners**

“He is extremely good in employment law cases with a public law or education dimension, and he gives very practical, succinct advice.” **Chambers and Partners**

“Amazingly astute and prepared to give difficult advice.” **Chambers and Partners**

“He really gives matters a huge amount of consideration and thinks about new angles in a case.” **Chambers and Partners**

“His advice is invariably clear and comprehensive. Friendly, helpful and easy to work with.” **Chambers and Partners**

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## Recent Cases

### **Cox v Secretary of State for the Home Department**

[2022] EWHC 680 (QB); [2022] IRLR 502

Long-standing arrangements under which civil service employees paid their trade union subscriptions directly through payroll amounted to a contractual term which could not be withdrawn by the Secretary of State for the Home Department, except in the event of industrial action

### **Eckland v Chief Constable of Avon and Somerset**

[2021] EWCA Civ 1961, CA, January 7 2022, Times, February 14 2022

A police officer was entitled to bring a disability discrimination claim against his chief constable, who was liable for the acts and omissions of an independent misconduct panel which she had appointed.

### **R (Alison Turner) v Secretary of State for Work and Pensions**

[2021] EWHC 465 (Admin), Admin Ct, March 3 2021, (2021) 24 CCLR 75; Times, April 8 2021

The policy of the Secretary of State for Work and Pensions on employment support allowance, and her decision in 2017 to stop it being paid to a disabled, mentally ill man who had failed to engage with a review of his eligibility and who subsequently starved to death in his flat, were lawful. Clive represented the Secretary of State.

### **R (The 3Million) v Minister for the Cabinet Office**

[2021] EWHC 245 (Admin), Div Ct, February 11 2021, [2021] ACD 46

The arrangements for EU nationals to vote in the UK in the 2019 European parliamentary elections were compatible with EU law. Clive represented the Minister for the Cabinet Office.

### **R (Article 39) v Secretary of State for Education**

[2020] EWCA Civ 1577, CA, 24 November 2020, Times, December 30 2020

Secretary of State had acted unlawfully by failing to consult the Children’s Commissioner before introducing the Adoption and Children (Coronavirus) (Amendment) Regulations 2020

### **R (BMA) v Northamptonshire County Council and others**

[2020] EWHC 1664 (Admin), QBD, June 25 2020, [2020] PTSR 1693; (2020) 23 CCLR 547

Local safeguarding arrangements published by the defendants were not in breach of the Children Act. Clive appeared for the NHS Commissioning Board, interested party

### **R (British Pregnancy Advisory Service) v Secretary of State for Health and Social Care**

[2020] EWCA Civ 355, CA, March 10 2020, [2020] 1 WLR 3240

Secretary of State issuing decision letter clarifying abortion time limit – Whether letter containing correct interpretation of time limit

### **R (MacKenzie) v Chancellor, Masters and Scholars of the University of Cambridge**

[2019] EWCA Civ 1060 CA, July 22 2019 [2019] 4 All ER 289

The only remedy for an employer's failure to comply with an order for re-engagement was a liability on the employer to pay an additional award under the Employment Rights Act 1996 s.117. The re-engagement order did not create an enforceable obligation on the employer to actually re-engage the employee.

### **R (DA) v Secretary of State for Work and Pensions**

[2019] UKSC 21 15 May 2019 [2019] 1 W.L.R. 3289

Benefit cap regime did not discriminate against lone parents contrary to the European Convention on Human Rights.

Clive represented the Secretary of State in the Supreme Court.

### **Poshteh v Kensington and Chelsea Royal LBC**

[2017] UKSC 36; SC, May 10 2017; [2017] 2 WLR 1417

Determination of application for accommodation as homeless person – Whether applicant entitled on review to article 6 procedural protections.

CS and TC appeared for the Secretary of State for Communities and Local Government, intervening.

### **Isle of Wight Council v Platt**

[2017] UKSC 28 6 Apr 2017 [2017] 1 W.L.R. 1441

A father who took his child on holiday during term-time without the school's permission had been properly issued with a penalty notice, despite the child's history of regular school attendance. The phrase "fails to attend regularly" in the Education Act 1996 s.444(1) referred to a pupil's failure to attend school "in accordance with the rules prescribed by the school".

Clive represented the father, John Platt, in the Supreme Court

### **(P) v General Dental Council**

[2017] 4 W.L.R. 14

Was the legislative provision enabling a dentist to seek a review of a decision to issue a warning retrospective?

### **(Humphreys) v Parking and Traffic Appeals Service**

[2017] EWCA Civ 24

Could a local authority issue a penalty charge notice to a motorcyclist who left his vehicle in a parking bay which was not suspended at the time when he initially parked it?

### **Evangelou v McNicol**

[2016] EWCA Civ 817; Times, September 7, 2016

Was it a breach of contract for the National Executive Committee of the Labour Party to prevent new members from voting in the leadership election in the summer of 2016?

### **(SG) v Secretary of State for the Home Department**

[2016] EWHC 2639 (Admin); [2016] A.C.D. 133

Was the level of asylum support provided by the government contrary to its obligations under EU law, human rights law, and domestic law?

### **Forge Care Homes Ltd v Cardiff & Vale University Health Board**

[2016] 19 CCLR 62

Who pays for the cost of nursing care?

### **Secretary of State for Education v National Union of Teachers**

[2016] IRLR 513

Proposed strike by sixth-form college teachers not unlawful

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## **News, Articles & Publications**

*Contributor*, Tolley's Employment Law and Employment Handbook

*Author* (with Hannah Slarks), The Claimant's Pre-permission Checklist: *Judicial Review*: Vol 21, No 2

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## Education

University of Cambridge, BA (Cantab),

University of Pennsylvania, LLM

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## Other

Before joining 11KBW, Clive practised for two years as an attorney with a leading Wall Street firm, where he specialised in commercial litigation. Clive continues to be a (non-practising) member of the New York State Bar.

Clive served for three years as a member of the Professional Complaints Committee of the Bar Standards Board.

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