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## Joanne Clement KC

Joanne took silk in 2022, practicing in all areas of public law and human rights law. Her practice extends from commercial judicial review to claims raising significant constitutional and human rights issues. She is also an expert in local government, and health, community care and mental capacity law, as well as in the field of procurement law and education law. Prior to taking silk, Joanne was a highly rated junior, and was top ranked by the legal directories in six practice areas (Administrative & Public Law, Civil Liberties & Human Rights, Local Government, Education, Community Care and Court of Protection).

She was the Chambers and Partners Public Law and Human Rights Junior of the Year in 2018/19. Recent cases include *R (Article 39) v Secretary of State for Education* [2022] EWHC 589 (Admin) (challenge to statutory instrument banning use of unregulated accommodation for young children); *R (A) v Secretary of State for the Home Department* [2022] EWHC 360 (Admin) (Parliamentary privilege and public law challenges to decisions resulting in primary legislation) and *In Re T* [2021] UKSC 35; [2021] 3 WLR 643 (Article 5, secure accommodation and deprivation of liberty of children).

Prior to taking silk, Joanne was a member of the Attorney General's Panel of Counsel for 15 years, having most recently been a member of the "A" Panel of Counsel. Joanne was also a member of the Welsh Government's Panel of Junior Counsel, and has now been appointed to the Welsh Government's KC Panel. Joanne has led teams in the Supreme Court, and has regularly appeared as leading or sole counsel in the Court of Appeal, the Administrative Court, the Family Division/Court of Protection and various tribunals.

She is described the directories as, *"Undoubtedly one of the cleverest individuals at the Bar"*, *"An outstanding barrister. She is so down to earth and approachable. Very clear and fantastic on her feet. Her drafting is just on a different level"*, *"A leader in the field"*, *"She can take command of a tough case and handle it with calm expertise"* *"An excellent advocate and an experienced public lawyer. She's direct, clear and very precise. She has the respect of the judiciary"* and *"...a complete superstar and knows community care law back to front"*.

Joanne sits as a Recorder in the Crown Court (South Eastern Circuit)



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### Professional Summary

Called 2002  
Appointed KC 2022

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### Contact Details

[Joanne.Clement@11kbw.com](mailto:Joanne.Clement@11kbw.com)

+44 (0)20 7632 8500

**Clerk** Michael Smith

**Clerk** Thomas Belcher

[Contact Clerks](#)

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## Specialisms

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### Public Law & Human Rights

Joanne is a public law specialist. She was Chambers & Partners Public Law and Human Rights Junior of the Year and prior to taking silk, was top ranked by the directories as a leading junior in Administrative & Public law and Civil Liberties & Human Rights. She practices in all areas of judicial review and public law, including human rights cases and commercial judicial review. Joanne acts for central and local government, other public bodies, third sector organisations, companies and individuals. She appears frequently in the Administrative Court, the Court of Appeal and Supreme Court (including as leading counsel).

Joanne has experience of judicial review claims in a wide range of contexts, ranging from a £5 billion challenge to the PIP regime, a challenge to NHS hospital closures, challenge to the much criticised reforms to criminal legal aid services, various challenges to the legal framework governing the deprivation

of liberty of children, and challenges to forced Academy conversions.

Joanne has particular expertise in devolution issues (having appeared before the Supreme Court in two devolution references) and in local government law (see Local Government details below)

Joanne has an extensive advisory and litigation practice in the human rights field. She has experience of dealing with cases raising human rights issues across a wide range of areas from the state's obligation to investigate deaths in detention, to religious freedoms and privacy rights. She has particular expertise in Article 14 and discrimination issues, and Article 5 and deprivation of liberty.

Examples of recent work in this field include:

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

[2022] EWHC 589 (Admin), Admin Ct, March 16 2022, [2022] 25 CCLR 271

Acted for the Secretary of State in a challenge to regulations which prohibited placements for looked after children under the age of 16 in unregulated accommodation, but did not alter the position in relation to 16 and 17 year olds.

**R (A) v Secretary of State for the Home Department**

[2022] EWHC 360 (Admin), Admin Ct, February 18 2022, [2022] ACD 65

Acted for the Secretary of State in a challenge to the consultation leading up to the Nationality and Borders Bill, raising important issues about Parliamentary privilege and non-justiciability

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

[2022] EWHC 167 (Admin)

Acted for the Secretary of State in challenge to the regime governing disabled students' access to universal credit

**MOC v Secretary of State for Work and Pensions**

[2022] EWCA Civ 1, CA, January 11 2022, (2022) 25 CCLR 63

Challenge dismissed to the rule that payments of disability living allowance to an adult are suspended after 28 days in hospital

**Derby City Council v BA, OM, CK**

[2021] EWCA Civ 1867; [2021] EWHC 2931 (Fam), Fam Div, November 3 2021, (2022) 25 CCLR 31

The High Court will not ordinarily countenance the exercise of its inherent jurisdiction to authorise the deprivation of liberty of a child in circumstances where an unregistered placement either would not or could not comply with the requirement in practice guidance to apply expeditiously for registration. Joanne appeared for Ofsted (in the Court of Appeal and High Court)

**In re T (a child)**

[2021] UKSC 35, SC July 30 2021, [2021] 3 WLR 643; (2021) 24 CCLR 339

Placement of child in unapproved children's home outside statutory scheme – Whether court to make order under inherent jurisdiction authorising placement

Joanne appeared for the Secretary of State for Education, intervening

**R (Enterprise Managed Service) v Secretary of State for Housing, Communities and Local Government**

[2021] EWHC 1436 (Admin), Admin Ct, May 27 2021, [2021] 1 WLR 5062

Guidance regarding discretion of administering authorities under Local Government Pension Scheme Regulations to award exit credits to contractor employers

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

[2021] EWHC 608 (Admin), Admin Ct, March 17 2021, [2021] PTSR 1342

Secretary of State's policy on making deductions from universal credit to pay fines imposed under the criminal law was unlawful

**R (Yew Tree Primary School) v Secretary of State for Education**

[2021] EWHC 2084 (Admin), Admin Ct, July 23 2021, [2021] ACD 104

Secretary of State's refusal to revoke academy order made in relation to a maintained school had been irrational

### **Mazhar v Lord Chancellor**

[2021] Fam 103

Appeal examining the circumstances in which a claim in respect of judicial acts is permissible under section 9 of the Human Rights Act 1998. Joanne acted for the Lord Chancellor

### **Barnet LBC v AG**

[2021] EWHC 1253 (Fam)

Claim for declaration of incompatibility contending that the diplomatic immunity provisions in the Vienna Convention on Diplomatic Relations and the Diplomatic Privileges Act 1964 are incompatible with Article 3 of the ECHR to the extent that they prevented a court from hearing and deciding an application for child protection measures in respect of children of diplomats.

Joanne appeared for the Secretary of State for Foreign and Commonwealth Affairs (appeal to CA outstanding)

### **Re ACC**

[2020] EWCOP 9, CP, February 27 2020, [2020] COPLR 406

Court of Protection clarified the scope of ordinary authority granted to a property and affairs deputy on their appointment.

Joanne appeared for the Public Guardian

### **In Re D (by his litigation friend, the Official Solicitor) v Birmingham City Council (the EHRC and the Secretary of State for Education/Justice intervening)**

[2019] 2 WLR 5403

Appeared before the Supreme Court in this test case determining the circumstances in which a child is deprived of liberty for the purposes of Article 5 ECHR and the role of parental consent

### **R (Crompton) v Police and Crime Commissioner for South Yorkshire**

[2018] 1 WLR 131

whether decision by Commissioner to require Chief Constable to resign as a result of comments he made after the Hillsborough inquest verdicts were announced was unlawful; case raised important issues under Article 8 ECHR and the impact on the Chief Constable's reputation

**R (Ferreira) v HM Senior Coroner for Inner South London and others** [2018] QB 487 – whether an individual is deprived of their liberty under Article 5 ECHR in an intensive care setting

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## **Local Government**

Prior to taking silk, Joanne was the top ranked junior for local government work by Chambers & Partners. Joanne acts regularly both for and against local authorities in complex, high profile cases, and is highly experienced in claims for judicial review (see Public Law entry above).

Joanne has experience of dealing with matters across the full range of local government law, including budget setting and other local government finance, local government reorganization, governance, cuts, charges and service change, the public sector equality duty, local government standards and general vires issues. Joanne has particular expertise in education law and community care / Court of Protection work.

In addition to the cases set out above, examples of recent work in the local government field include

**R (London Borough of Havering) v Mayor's Office of Policing and Crime** (acting for the local authority in a high profile challenge to the closure of police stations in London)

**R (Governing Body of Plumpton College) v East Sussex County Council, West Sussex County Council and Brighton & Hove City Council** (acting for the claimant FE college in a challenge to the funding provided by local authorities for special educational needs placements in the FE sector)

### **R (Ocean Outdoor UK Ltd) v Hammersmith & Fulham London Borough Council**

[2019] EWCA Civ 1642

(first ever judicial review claim considering whether a lease amounted to a concession contract under the Concession Contracts Regulations; challenge to award of leases to operate advertising towers next to the Hammersmith flyover)

**R (Liverpool CC and others) v Secretary of State for Health** [2017] EWHC 986 (Admin) (claim that central Government's failure to fully fund costs of the deprivation of liberty safeguards created an unacceptable risk of illegality; leading case on central government obligations to fund new burdens on local authorities)

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## **Education**

Prior to taking silk, Joanne was ranked in the top tier of education law juniors by Chambers & Partners.

Joanne deals with the full range of issues that arise in the context of maintained schools and academies, including admissions, exclusions, special educational needs and disability discrimination, school transport, Academy conversions and the free schools programme, and Ofsted/intervention powers.

She is also experienced in claims arising in the independent school sector, including breach of contract and disability discrimination claims. She is highly experienced in the regulatory regime governing independent schools, and has advised schools on matters arising out of inspections and regulatory action taken by the Secretary of State. She has represented independent schools before the First-tier Tribunal in appeals against enforcement action taken by the Secretary of State.

She also works in the further and higher education sector, and regularly acts for students, and further and higher education institutions.

She is fully familiar with the Welsh devolution settlement and Welsh education legislation, and has carried out extensive training on the new Additional Learning Needs legislation in Wales.

Recent work in this area includes:

**R (Goodred) v Portsmouth City Council**

[2021] EWHC 3057 (Admin)

Leading case on home education and duties on local authorities/parents

**R (Yew Tree Primary School) v Secretary of State for Education**

[2021] EWHC 2084 (Admin); [2021] ELR 809

Successful challenge to Secretary of State's refusal to revoke an Academy order on grounds that it was irrational. Leading counsel for the Governing Body

**Rudolf Steiner School Kings Langley Association v Secretary of State for Education** (Representing a Steiner School in an appeal against a decision by the Secretary of State to remove it from the independent school register)

**R (Governing Body of Plumpton College) v East Sussex County Council, West Sussex County Council and Brighton & Hove City Council** (acting for the claimant FE college in a challenge to the funding provided by local authorities for special educational needs placements in the FE sector)

**AKT v Westminster CC [2018] UKUT 47 (AAC)**

(Acting for the local authority in appeal against FTT decision, holding that it would be incompatible with the efficient education of others to education children in a mainstream setting)

**R (Talent Training Company) v Secretary of State for Education and Education and Skills Funding Agency** (acted for the claimant in challenge to Secretary of State's decision to terminate the contract of a major apprenticeship provider under the new apprenticeship levy regime)

Advising various local authorities on school re-organisation matters, including controversial decisions to close schools and to propose regulated alterations to schools

Advising on various issues arising out of proposals to change school transport provision, including potential discrimination claims

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## **Health, Community Care & Court of Protection**

Joanne was ranked in the top tier of community care juniors by Chambers & Partners and Band 2 for Court of Protection work.

Joanne deals with the full range of health and community care matters, including challenges to the provision of services for adults and children, age assessment cases, needs assessments and funding issues, services for those subject to immigration control, human rights disputes, challenges to the setting of care home fees, advise on top-up fees and deferred payment agreements, re-organisation of NHS services and commissioning, and inter-authority disputes. Joanne regularly advises local authorities on ordinary residence disputes; and acts for families, local authorities and CCGs on disputes over eligibility for continuing healthcare.

Joanne also has extensive experience in Court of Protection matters, appearing in cases raising capacity issues, best interest decisions and deprivation of liberty.

Joanne is fully familiar with the Welsh devolution settlement and Welsh health and social services legislation.

Recent cases in this field include:

**R (Good Law Project) v Secretary of State for Education and others**

High profile challenge, alleging that local authorities were failing to secure sufficient in-area accommodation for vulnerable looked after children and that the Secretary of State had failed to exercise his default powers to ensure that they complied with their duties. Acted for the Secretary of State for Education

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

[2022] EWHC 589 (Admin), Admin Ct, March 16 2022, [2022] 25 CCLR 271  
Acted for the Secretary of State in a challenge to regulations which prohibited placements for looked after children under the age of 16 in unregulated accommodation, but did not alter the position in relation to 16 and 17 year olds.

**Derby City Council v BA, OM, CK**

[2021] EWCA Civ 1867; [2021] EWHC 2931 (Fam), Fam Div, November 3 2021, (2022) 25 CCLR 31  
The High Court will not ordinarily countenance the exercise of its inherent jurisdiction to authorise the deprivation of liberty of a child in circumstances where an unregistered placement either would not or could not comply with the requirement in practice guidance to apply expeditiously for registration. Joanne appeared for Ofsted (in the Court of Appeal and High Court)

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Placement of child in unapproved children's home outside statutory scheme – Whether court to make order under inherent jurisdiction authorising placement  
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**R (Hinsull) v NHS Dorset Clinical Commissioning Group** [2018] EWHC 2331 (Admin) (challenge to NHS reorganisation in Dorset, including the closure of A&E beds)

**R (BUPA Care Homes Ltd) v Care Quality Commission** (claim for judicial review challenging the rating awarded to a care home following a CKC inspection)

**R (CWR) v Flintshire County Council** (acted for the claimant in one of the first judicial review challenges under the Social Services and Well-being (Wales) Act 2014 – challenge to a local authority's assessment of need for a young adult with autism, to the care package provided and to the support provided to her parents as carers)

**Briggs v Briggs** (by his litigation friend the Official Solicitor) and others [2018] Fam 63 (scope of the Court of Protection's powers under s21A of the Mental Capacity Act 2005 and eligibility for non means tested legal aid)

**R (Dyer) v Welsh Ministers and Abertawe Bro Morgannwg University Health Board** (2016) 19 CCLR 84  
(nature of obligations on NHS bodies to assess need for particular health services)

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## Procurement & State Aid

Joanne's public law practice has expanded in recent years to include the full remit of procurement cases. Joanne represents economic operators and contracting authorities in procurement disputes before the TCC, as well as in judicial review proceedings where appropriate.

Examples of recent work in this field include:

**Ocean Outdoor UK Ltd v Hammersmith & Fulham LBC** [2018] EWHC 2508 (TCC) (appeal outstanding)  
(acting for the local authority in the first case to come before the courts under the Concession Contracts Regulations 2015)

**R (Warwickshire Welfare Rights Advice Service) v Warwickshire County Council** (JR claim considering whether a challenge to the outcome of a procurement can be brought by way of a claim for judicial review, or whether they must be brought as a Part 7 claim in the TCC; considered whether the automatic suspension applies when decision is challenged by way of JR)

**Ontix Ltd v London Borough of Tower Hamlets** (acting for the contracting authority in marking challenge)

Representing a local authority before the Technology and Construction Court in defending a manifest error marking challenge

Acting for criminal legal aid solicitors challenging the Legal Aid Agency's award of the new duty contracts

Advising on the application of the procurement regime to grant awards and shared services  
Advising clients on the permissible grounds for the variation of existing public contracts  
Advising clients on the application of procurement law to development agreements  
Advising on applications to lift automatic suspensions

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## Inquiries, Inquests & Investigations

Joanne regularly represents public authorities in coronial inquests. She appears at Pre-Inquest reviews, making submissions about the scope of inquests (including whether the inquest should be an Article 2 compliant inquest), advises on evidence to be produced to the Coroner and represents parties at full inquests. Joanne is currently instructed by Wiltshire County Council in the public inquiry into the death of Dawn Sturgess (Novichok poisoning in Salisbury).

Examples of her work in this field include:

Acting for a school in an inquest into the death of a teenager following a severe allergic reaction

Acting for a local authority in an inquest into the death of a teenager who had been supported by them

Acting for a local authority responsible for highway design in an inquest into the death of a cyclist

Acting for a local authority in an inquest into the death of a woman with learning disabilities receiving social services support and support from medical practitioners

Acting for the Secretary of State in inquests into the death of prisoners

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## Recommendations

"Undoubtedly one of the cleverest individuals at the Bar" **Legal 500**

"A superb lawyer, very knowledgeable, resourceful and persuasive" **Legal 500**

"Jo is extremely quick on the uptake and strategic. She is able to analyse the key legal issues and take you to the key issues which are at the heart of the strategy" **Legal 500**

“An incredibly effective advocate – she brings intellectual rigour to her cases.” **Chambers and Partners**

“Extremely bright, hard-working and always helpful in court. She provides strong and realistic advice to her clients when they are in a tight corner.” **Chambers and Partners**

“Very clear, exceptionally bright and very personable – definitely someone I’d want to work with more in the future.” **Chambers and Partners**

“An excellent practitioner with a good advocacy style.” **Chambers and Partners** “

“She’s an excellent advocate and an experienced public lawyer. She’s direct, clear and very precise. She has the respect of the judiciary.” **Chambers and Partners**

“Very bright, personable and a persuasive and measured advocate.” **Chambers and Partners**

“She is a very sensible opponent and undoubtedly one of the brightest junior lawyers at the Bar.”  
**Chambers and Partners**

“An excellent practitioner with a good advocacy style,” who “went the extra mile and got to the crux of the matter.” **Chambers and Partners**

“She is excellent; a first-rate lawyer with very good judgement.” **Chambers and Partners**

“She is one of the best public law juniors at the bar.” **Chambers and Partners**

“Clever, diligent, solid and thorough.” “Has a brilliant manner with judges,” and is “very clear in her oral advocacy.” **Chambers and Partners**

“She’s approachable, very knowledgeable and pragmatic in her advice.” “She is down-to-earth but eminently capable of dealing with complex esoteric issues. She exudes confidence and good humour.”  
**Chambers and Partners**

“Although a junior, she is of silk quality and has great knowledge of the law – particularly Welsh law. She’s pleasant, very able, and very respected by the courts.” **Chambers & Partners**

“I’m surprised she’s not a silk already, she’s brilliant.” **Chambers and Partners**

“She’s a really excellent advocate who impresses with her speed and diligence” **Chambers and Partners**

“A great junior who is immensely confident and has an incredibly good brain” **Chambers and Partners**

“absolutely outstanding, she has an extremely impressive style of advocacy” **Chambers and Partners**

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## Appointments

2012 – Welsh Government’s A Panel of Junior Counsel

2015 – Attorney General’s A Panel of Counsel

2018 – Recorder (Crime), South Eastern Circuit

2022 Appointed to silk (and appointed to Welsh Government’s Silk Panel)

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## News, Articles & Publications

International Law in Domestic Courts: the Developing Framework [2008] 124 LQR 388 (with Philip Sales KC)

Contributor to Halsburys Laws of England: Judicial Review title

Information Rights: Law and Practice (Coppel ed.)

Supperstone, Goudie & Walker on Judicial Review (4<sup>th</sup> and 5<sup>th</sup> ed)

Supperstone & Knapman – Administrative Court Practice

Education Law Handbook (contributor, 1<sup>st</sup> ed. 2021).

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## Education

Somerville College, Oxford – BA (Jurisprudence), 1<sup>st</sup> class

Somerville College, Oxford – BCL, Distinction

Oxford University Eldon Law Scholar (2002)

Gray's Inn Reid Senior Scholarship

Gray's Inn Beddingfield Junior Scholarship

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## Other

Prior to starting practice, Joanne spent a year as a Judicial Assistant to the Law Lords (working for Lord Hope and Baroness Hale).

In 2006, Joanne was awarded a Pegasus Scholarship and worked in Wellington, New Zealand.

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### ADDRESS

11KBW  
11 King's Bench Walk  
Temple  
London  
EC4Y 7EQ

### CONTACT US

T +44 (0)20 7632 8500  
  
OUT OF HOURS CLERK  
T +44 (0)7824 365 991

### EMAIL

clerksroom@11kbw.com

### DX NUMBER

LDE 368

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