
Jonathan Moffett QC

Jonathan is an acknowledged expert in public law, and has been described by the legal directories as combining “the perfect blend of razor-sharp intellect, strategic oversight and excellent client skills”.

Jonathan’s practice has a particular emphasis on the fields of regulatory law, local government law, human rights, education law, environmental and planning law, EU law and health and community care law. He has a huge amount of experience in dealing with claims for judicial review, and he is ranked by the legal directories as a leading silk in administrative and public law, local government law, education law, and civil liberties and human rights. Jonathan represents government bodies on some of their most important and difficult cases, and he is on the Welsh Government’s panel of QCs, the Equality and Human Rights Commission’s A panel of counsel and the NPS panel of counsel instructed by Welsh public bodies. He is a co-author of the leading public law practitioners’ text, *Judicial Review: Principles and Procedure (OUP)*.



Professional Summary

Called 1996
Appointed QC 2017

Contact Details

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Specialisms

Public Law

Jonathan is acknowledged as an expert in public law, and he has extensive experience in litigating claims for judicial review. He is ranked as specialist in administrative and public law by both Chambers & Partners and The Legal 500. Jonathan acts for central and local government bodies, other public sector bodies, third sector organisations, companies and individuals, and he regularly appears in the Administrative Court, the Court of Appeal and the Supreme Court. Jonathan has particular expertise in claims for judicial review and statutory appeals in the fields of regulatory law, local government law, human rights, education law, environmental and planning law, EU law and health and community care law. Jonathan also advises on governance issues, and he has recently been advising a number of public and third sector bodies on governance reviews. Jonathan’s expertise in judicial review is underpinned by the fact that he is a co-author of the leading practitioners’ textbook on the subject, *Judicial Review: Principles and Procedure (OUP)*.

Recent examples of Jonathan’s public law cases include:

R (Chief Constable of Lincolnshire) v College of Policing

(2019) (High Court)

Jonathan is representing the College of Policing in this challenge to the introduction of a new nationwide qualifications framework for police officers.

R (Canary Wharf Group) v Mayor of London

(2019) (High Court)

Jonathan represented the Mayor of London on this challenge to the London-wide Mayoral community infrastructure levy, which put in jeopardy the raising of up to £6 billion towards the costs of Crossrail.

R (Hollow) v Surrey County Council

[2019] EWHC 618 (Admin), [2019] ELR 329 (Divisional Court)

Jonathan successfully represented Surrey County Council on this major challenge to its

decision to reduce its schools and special educational needs budget by £21 million. This case is now the leading case on challenges to local authority budget-setting decisions.

R (EU Lotto Ltd) v Secretary of State for Digital, Culture, Media and Sport

[2018] EWHC 3111 (Admin), [2019] 1 CMLR 41 (Divisional Court)

Jonathan successfully represented the Gambling Commission in this judicial review of the ban on gambling companies offering bets on the outcome of EuroMillions draws.

R (AR) v Greater Manchester Police and Secretary of State for the Home Department

[2018] UKSC 47, [2018] 1 WLR 4079 (Supreme Court)

Jonathan successfully led for the Home Secretary in the Supreme Court in this human rights challenge to the disclosure of acquittals on enhanced criminal record certificates. The Supreme Court's decision also laid down the approach that the appellate courts should adopt to an appeal on a proportionality challenge.

R (British Homeopathic Association) v NHS Commissioning Board

[2018] EWHC 1359 (Admin), [2018] PTSR 2031 (High Court)

Jonathan successfully defended this judicial review of NHS England's decision to issue guidance to CCGs recommending that homeopathic treatments should not routinely be prescribed on the NHS.

R (TenetConnect Ltd) v Financial Ombudsman Service

[2018] EWHC 459 (Admin), [2018] BCLC 726 (High Court)

Jonathan successfully represented the Financial Ombudsman on this judicial review of a decision that regulated networks of financial advisors could be responsible for the frauds of their appointed representatives.

R (ClientEarth) v Secretary of State for the Environment and the Welsh Ministers

[2018] EWHC 315 (Admin), [2018] Env LR 21 (High Court)

Jonathan represented the Welsh Ministers on this EU law challenge to the United Kingdom's air quality plan for addressing nitrogen dioxide air pollution.

R (Hysaj) v Secretary of State for the Home Department

[2017] UKSC 82, [2018] 1 WLR 221 (Supreme Court)

Jonathan represented the Secretary of State in this judicial review challenging the application of the public law fraud principle in cases where British citizenship had purportedly been granted to persons who had lied about their identity.

Local Government

Jonathan is ranked as an expert in local government law by both Chambers & Partners and The Legal 500. He has experience of dealing with matters across the full spectrum of local government law, including budget challenges, local government reorganisations, combined authorities, central government intervention, governance, service reorganisations, the public sector equality duty, inter-authority disputes, standards, local government finance and disposal of land. Jonathan has particular expertise in relation to combined authorities, having advised a number of such authorities, and he was involved in the first ever judicial review arising in the context of combined authorities. He has also recently been advising a number of local authorities on potential challenges to local government reorganisations.

Recent examples of Jonathan's local government cases include:

R (Canary Wharf Group) v Mayor of London

(2019) (High Court)

Jonathan represented the Mayor of London on this major challenge to the London-wide Mayoral community infrastructure levy, which put in jeopardy the raising of up to £6 billion towards the costs of Crossrail.

R (Hollow) v Surrey County Council

[2019] EWHC 618 (Admin), [2019] ELR 329 (Divisional Court)

Jonathan successfully represented Surrey County Council on this major challenge to its

decision to reduce its schools and special educational needs budget by £21 million. This case is now the leading case on challenges to local authority budget-setting decisions.

Nottingham City Council v Parr

[2018] UKSC 51, [2018] 1 WLR 4985 (Supreme Court)

Jonathan led in the Supreme Court for the Ministry of Housing, Communities and Local Government in this challenge to the First-tier Tribunal's decision to impose conditions on HMO licences which restricted the classes of persons who could live in the HMOs.

R (Woolcock) v Secretary of State for Housing, Communities and Local Government

[2018] EWHC 17 (Admin), [2018] 4 WLR 49 (Divisional Court)

Jonathan successfully represented the Welsh Ministers on this challenge to the fairness of the system of committing council tax defaulters to prison.

R (Derbyshire County Council) v Barnsley, Doncaster, Rotherham and Sheffield Combined Authority

[2016] EWHC 3355 (Admin) (High Court)

Jonathan acted for the Secretary of State, who intervened in the first ever judicial review relating to combined authorities, in this challenge to a consultation on changing the boundaries of a combined authority to include new local authority areas.

R (London Borough of Southwark) v London Fire and Emergency Planning Authority

[2016] EWHC 1701 (Admin) (Divisional Court)

Jonathan successfully represented the London Fire Authority in a judicial review of its decision to retain prosecutorial functions under the Regulatory Reform Order, in which the claimant council argued that the Authority was tainted by the appearance of bias.

R (Tower Hamlets London Borough Council) v Secretary of State for Communities and Local Government

[2014] EWHC 4364 (Admin) (High Court)

Jonathan successfully represented the Secretary of State on a challenge to the decision to conduct a best value inspection of Lutfur Rahman's controversial mayoral administration in Tower Hamlets.

R (Islington London Borough Council) v London Fire and Emergency Planning Authority

[2013] EWHC 4142 (Admin) (High Court)

Jonathan successfully represented the London Fire Authority on a major challenge brought by a coalition of seven London councils to the Authority's decision to close fire stations in the light of budget cuts.

Education

Jonathan has unrivalled expertise in education law and he is ranked in the field by both Chambers & Partners and The Legal 500 and, before taking silk in 2017.

In the higher education context, Jonathan has experience of dealing with the full range of issues that arise, including judicial reviews, Tier 4 sponsor issues, inter-institution disputes, breach of contract and negligence claims, discrimination and human rights matters, complaints to the OIA, and student discipline appeals. He is currently instructed by a university on a potential claim for judicial review of the Office for Students.

In relation to schools and academies, Jonathan has expertise in dealing with matters relating to admissions, discipline and exclusions, special educational needs and disability discrimination, school transport, and interventions. Jonathan has particular experience in dealing with issues arising out of academy conversions and school reorganisations and in advising on the structural and funding issues (including land transfers) that arise in that context.

Jonathan also deals with matters arising in the independent sector, including contractual and negligence claims and regulatory issues.

Jonathan has particular expertise in human rights issues that arise in the education sector and,

as well as having acted in the leading domestic case on the right to education under Article 2 of the First Protocol, he is currently representing the United Kingdom Government in an Article 2 case before the European Court of Human Rights.

Recent examples of Jonathan's education law cases include:

Derbyshire County Council v EM and DM (SEN)

[2020] ELR 27 , [2019] UKUT 240 (AAC), (Upper Tribunal)

Whether a school or other institution always needed to be named in section I of an education, health and care plan.

R (Chief Constable of Lincolnshire) v College of Policing

(2019) (High Court)

Jonathan is representing the College of Policing in this challenge to the introduction of a new nationwide qualifications framework for police officers.

R (Durand Education Trust) v Secretary of State for Education

(2019) (High Court)

Jonathan is representing the Department for Education in the latest round of litigation relating to Durand Academy, involving a challenge to a direction to make an academy land transfer.

Derbyshire County Council v Moore

[2019] UKUT 240 (AAC) (Upper Tribunal)

Jonathan represented Derbyshire on its appeal to the Upper Tribunal, which decided that there is no requirement to name a school in an EHC Plan in circumstances where the plan specifies that the child will be provided with education otherwise than at school.

R (Hollow) v Surrey County Council

[2019] EWHC 618 (Admin), [2019] ELR 329 (Divisional Court)

Jonathan successfully represented Surrey County Council on this major challenge to its decision to reduce its schools and special educational needs budget by £21 million.

McTier v Secretary of State for Education

[2017] EWHC 212 (Admin), [2017] PTSR 815 (High Court)

Jonathan represented the Secretary of State in this challenge to the retrospective effect of the regime governing prohibition orders against teachers in cases where the misconduct occurred before the regime came into force.

CP v United Kingdom

[2016] 63 EHRR SE14 (European Court of Human Rights)

Jonathan successfully represented the United Kingdom on this Strasbourg application claiming that a pupil's exclusion from school gave rise to a breach of his right to education.

R (Hockerill Anglo-European College Academy Trust) v Schools Adjudicator

[2016] EWHC 1642 (Admin) (High Court)

Jonathan successfully represented the Secretary of State in this challenge to a boarding academy's admission policy which provided for children to be admitted as "day boarders".

Johnston v Secretary of State for Education

[2016] EWHC 1871 (Admin), [2017] ELR 163 (High Court)

Jonathan successfully represented the Secretary of State in this challenge to the imposition of a prohibition order on a teacher who had been accused of ill-treating a child with special educational needs.

R (London Oratory School) v Schools Adjudicator

[2015] EWHC 1012 (Admin), [2015] ELR 335 (High Court)

This was a major judicial review of the Schools Adjudicator's decision that the London Oratory School was operating an admissions policy that breached the School Admissions Code in a number of respects. Jonathan acted for the Secretary of State, who intervened in the case.

R (DD) v Independent Appeal Panel of the London Borough of Islington

[2013] EWHC 2262 (Admin), [2013] ELR 483 (High Court)

Jonathan successfully represented the Secretary of State, who intervened in this challenge to an IAP decision which raised difficult questions as to the application of the School Admissions Code in infant class size cases where a school operates split reception classes.

Human Rights

Jonathan has unrivalled expertise in dealing with cases raising human rights issues across a wide range of areas, including the retention and disclosure of information, education, prisons, immigration and asylum, and terrorism and national security. He is ranked by The Legal 500 as a leading practitioner in the field of civil liberties and human rights. Jonathan also has experience of dealing with such issues in the health sector, and has advised on matters such as the compatibility of policies for the funding of treatment with Convention rights and equalities legislation. Jonathan is currently instructed by the UK Government in several cases before the European Court of Human Rights, include the application to Strasbourg that followed the Supreme Court's decision in the Gaughran case.

Recent examples of Jonathan's human rights cases include:

R (AR) v Greater Manchester Police and Secretary of State for the Home Department

[2018] UKSC 47, [2018] 1 WLR 4079 (Supreme Court) Jonathan successfully led for the Home Secretary in the Supreme Court in this judicial review of the disclosure of information about acquittals on criminal records certificates, based on an allegation that it was incompatible with the presumption of innocence under Article 6 and the right to respect for private life under Article 8 of the Convention. The case also decided the approach to be adopted by an appellate court on a proportionality challenge.

McDonald v McDonald

[2016] UKSC 28, [2017] AC 273 (Supreme Court)

Jonathan successfully acted for the Secretary of State, who intervened in this case raising the important issue of whether Article 8 of the Convention has horizontal effect in possession proceedings between two private parties.

CP v United Kingdom

[2016] 63 EHRR SE14 (European Court of Human Rights)

Jonathan successfully represented the United Kingdom on this Strasbourg application claiming that a pupil's exclusion from school gave rise to a breach of his right to education.

R (Gaughran) v Chief Constable of the Police Service of Northern Ireland

[2015] UKSC 29, [2016] AC 345 (Supreme Court)

Jonathan successfully represented the Home Office in this challenge, based on an alleged breach of Article 8 of the Convention, to the indefinite retention by police of the DNA profiles of persons who have been convicted of an offence.

Professional Disciplinary & Regulatory

In regulatory and disciplinary matters, Jonathan acts for both regulators and companies and individuals. Regulators for whom Jonathan has acted include including the Gambling Commission, the Financial Reporting Council, Ofqual, the Nursing and Midwifery Council, the General Pharmaceutical Council, the Solicitors Regulation Authority, Ofsted, the Single Source Regulations Office, the Pubs Code Adjudicator and the Independent Schools Inspectorate. Jonathan also frequently acts for the Financial Ombudsman Service, defending claims for judicial review.

Jonathan's recent professional disciplinary and regulatory law cases include:

R (EU Lotto Ltd) v Secretary of State for Digital, Culture, Media and Sport

[2018] EWHC 3111 (Admin), [2019] 1 CMLR 41 (Divisional Court)

Jonathan successfully represented the Gambling Commission in this judicial review of a prohibition on offering bets on the outcome of EuroMillions draws.

R (TenetConnect Ltd) v Financial Ombudsman Service

[2018] EWHC 459 (Admin), [2018] BCLC 726 (High Court)

Jonathan successfully represented the Financial Ombudsman on this judicial review of a decision that regulated networks of financial advisors could be responsible for the frauds of their appointed representatives.

McTier v Secretary of State for Education

[2017] EWHC 212 (Admin) (High Court)

Jonathan represented the Secretary of State in this challenge to the retrospective effect of the regime governing prohibition orders against teachers in cases where the misconduct occurred before the regime came into force.

R (Westscott Financial Services) v Financial Ombudsman Service

[2014] EWHC 3972 (Admin) (High Court)

Jonathan successfully represented the Financial Ombudsman on a challenge not to stay complaints pending the outcome of the major Keydata negligence claim in the Commercial Court.

Information

Jonathan has extensive experience of dealing with information law issues, and has particular expertise in human rights challenges to the retention and disclosure of data. Jonathan has acted in a large number of cases raising the compatibility of data retention regimes with Article 8 of the Convention, at all levels up to the Supreme Court and the European Court of Human Rights, and he is currently representing the United Kingdom in a number of Strasbourg cases relating to the retention of biometric data and the disclosure of criminal records. Jonathan has also advised the Government on its review of the regime governing the retention of “mugshots” by the police, on the implications of cross-government data-sharing and on the compatibility with the GDPR of sharing information with foreign law enforcement agencies. In the DPA context, Jonathan has recently represented a public body in proceedings relating to a large-scale data breach.

Recent examples of Jonathan’s information law cases include:

R (AR) v Greater Manchester Police and Secretary of State for the Home Department

[2018] UKSC 47, [2018] 1 WLR 4079 (Supreme Court)

Jonathan successfully led in the Supreme Court for the Home Secretary in this judicial review of the disclosure of information about acquittals on criminal records certificates, based on an allegation that it was incompatible with the presumption of innocence under Article 6 and the right to respect for private life under Article 8 of the Convention.

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

[2016] EWCA Civ 597 (Court of Appeal)

Jonathan successfully resisted a challenge to the scheme for the disclosure of information about convicted child sex offenders known as “Sarah’s law” in both the High Court and the Court of Appeal.

R (Gaughran) v Chief Constable of the Police Service of Northern Ireland

[2015] UKSC 29, [2016] AC 345 (Supreme Court)

Jonathan successfully represented the Home Office in this challenge, based on an alleged breach of Article 8 of the Convention, to the indefinite retention by police of the DNA profiles of persons who have been convicted of an offence.

R (RMC and FJ) v Commissioner of Police for the Metropolis

[2012] EWHC 1681 (Admin), [2012] 1 WLR 3007 (Divisional Court)

Jonathan represented the Secretary of State in this challenge to the national Management of Police Information policy on the ground that it was incompatible with Article 8 of the Convention.

Environmental & Planning

Jonathan has extensive experience of litigating environmental and planning cases in the higher

courts, particularly in the context of EU environmental law. Jonathan has also advised on a wide-range of planning-related matters, including the Secretary of States' intervention in local authorities plan-making processes, the National Planning Statement for geological disposal facilities for nuclear waste, development consents for on and off-shore windfarm projects, the grant and revocation of planning permissions for open-cast coal mining, and the decision not to proceed with the plan to build a new stretch of the M4 across the Gwent Levels SSSIs.

Jonathan has particular experience of issues arising in the context of air quality: he appeared in the ClientEarth litigation on the United Kingdom's air quality plan for tackling nitrogen dioxide pollution, he advised the Welsh Government on the formulation of their air quality plan, he is advising a London Borough on the air quality implications of a proposed traffic scheme, and he has been instructed to appear at an inquest which will inquire into whether air pollution contributed to the death of a child.

R (Canary Wharf Group) v Mayor of London

(2019) (High Court)

Jonathan represented the Mayor of London on this challenge to the London-wide Mayoral community infrastructure levy on State aid grounds.

R (Chiltern Farm Chemicals Ltd) v Secretary of State for the Environment, Food and Rural Affairs

(2019) (High Court)

Jonathan represented DEFRA on this challenge to a decision not to license pesticides under the EU Plant Protection Products Regulation.

R (ClientEarth) v Secretary of State for the Environment and the Welsh Ministers

[2018] EWHC 315 (Admin), [2018] Env LR 21 (High Court)

Jonathan represented the Welsh Ministers on this EU law challenge to the air quality plans for addressing nitrogen dioxide air pollution.

Shortt v Secretary of State for Communities and Local Government

[2015] EWCA Civ 1192, [2016] 1 P&CR 15 (Court of Appeal)

Jonathan was brought in to argue this case in the Court of Appeal on the correct interpretation of the standard-form agricultural occupancy condition.

R (Friends of the Earth) v Welsh Ministers

[2015] EWHC 776 (Admin), [2016] Env LR 1 (High Court)

Jonathan successfully resisted a major challenge, based on alleged failure to comply with the Strategic Environmental Assessment Directive, to the Welsh Government's decision to proceed with a £1 billion project to build a new stretch of the M4 motorway to the south of Newport.

R (An Taisce) v Secretary of State for Energy and Climate Change

[2014] EWCA Civ 1111, [2015] PTSR 189 (Court of Appeal)

Jonathan acted for the Secretary of State in this judicial review of the grant of development consent for Hinkley Point C nuclear power station, based on allegation that the requirements of the Habitats Directive had not been complied with.

European Union

Jonathan frequently acts in cases concerned with EU law. He has recently been involved in matters raising a wide variety of EU law issues, including State aid, the implementation of the common agricultural policy; the compatibility with EU law of a residency requirement for entitlement to tuition fee support, a minimum price for alcohol, and plain-packaging for tobacco products; the designation of special areas of conservation under the Habitats Directive; and the compatibility of religious further education colleges with the Equal Treatment Directive.

Jonathan has also acted in infraction proceedings, including the infraction proceedings brought by the European Commission in relation to Aberthaw power station.

Recent examples of Jonathan's EU law cases include:

R (Canary Wharf Group) v Mayor of London

(2019) (High Court)

Jonathan represented the Mayor of London on this challenge to the London-wide Mayoral community infrastructure levy on EU State aid grounds.

R (Chiltern Farm Chemicals Ltd) v Secretary of State for the Environment, Food and Rural Affairs

(2019) (High Court)

Jonathan represented DEFRA on this challenge to a decision not to license pesticides under the EU Regulation on Plant Protection Products.

R (EU Lotto Ltd) v Secretary of State for Digital, Culture, Media and Sport

[2018] EWHC 3111 (Admin) (Divisional Court)

Jonathan successfully represented the Gambling Commission in this judicial review of a ban on offering bets on the outcome of EuroMillions draws on the grounds that it constituted a disproportionate interference with the freedom to provide services.

R (ClientEarth) v Secretary of State for the Environment and the Welsh Ministers

[2018] EWHC 315 (Admin), [2018] Env LR 21 (High Court)

Jonathan represented the Welsh Ministers on this EU law challenge to the United Kingdom's air quality plans for addressing nitrogen dioxide air pollution.

R (Friends of the Earth) v Welsh Ministers

[2015] EWHC 776 (Admin), [2016] Env LR 1 (High Court)

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R (An Taisce) v Secretary of State for Energy and Climate Change

[2014] EWCA Civ 1111, [2015] PTSR 189 (High Court and Court of Appeal)

Jonathan acted for the Secretary of State in this judicial review of the grant of development consent for Hinkley Point C nuclear power station, based on allegation that the requirements of the Habitats Directive had not been complied with.

Health & Community Care

Jonathan has considerable experience of dealing with the full range of health and community care matters, including challenges to service reorganisations and funding decisions, human rights challenges, inter-authority disputes, challenges to the provision of services for adults and children and age assessment cases. He has advised on the compatibility of funding policies with Convention rights and equalities legislation.

Recent cases include:

R (British Homeopathic Association) v NHS Commissioning Board

[2018] EWHC 1359 (Admin), [2018] PTSR 2031 (High Court)

Jonathan successfully defended this judicial review of NHS England's decision to issue guidance to CCGs to the effect that homeopathic treatments should not routinely be prescribed on the NHS.

R (Buckinghamshire County Council) v Kingston-upon-Thames Royal London Borough Council

[2011] EWCA Civ 457, [2012] PTSR 854 (High Court and Court of Appeal)

Jonathan represented Buckinghamshire on a challenge to a lack of consultation before another local authority placed an individual in receipt of community care services in its area.

Procurement & State Aid

Jonathan recently represented the Mayor of London on a major State aid challenge to the London-wide Mayoral community infrastructure levy which raised complex issues as to the application of the State aid rules to taxation regimes which apply different rates to different types of undertakings in different geographical locations. Jonathan is also currently advising the Single Source Regulations Office on the pricing of defence contracts under the Defence Reform Act 2014.

Recommendations

“An outstanding advocate.” **Legal 500, 2020**

“He’s exceptionally knowledgeable and has an excellent grasp of the detail of a case. He provides sound commercial solutions and is effective with the client.” **Chambers & Partners, 2020**

“A very approachable and diligent QC who strives to ensure that clients understand every nuance in his suggested approach to a matter, and who is mindful of long-term goals and tactics.” **Chambers & Partners, 2020**

“He is exceptionally nice and a very, very clever man.” **Chambers & Partners, 2020**

“He’s very bright and has very good judgement – he is absolutely excellent.” **Chambers & Partners, 2019**

“He’s able to explain the finer details of complex matters in a way that the client understands, and always has one eye on the long-term tactical considerations as well as the immediate advice needed.” **Chambers & Partners, 2019**

“He has an incisive mind and takes a very innovative approach to cases. He has an ability to translate complex concepts into simple language.” **Chambers & Partners, 2019**

“Combines the perfect blend of razor-sharp intellect, strategic oversight and excellent client skills.” **Legal 500, 2018**

“He is absolutely brilliant in a wide range of areas; he seems to be able to turn his hand to anything and produces compelling advice. He’s very modest, creative and extremely hard-working. He works extremely well with other barristers; he really has all the talents” **Chambers & Partners, 2018**

News, Articles & Publications

Co-author, *Judicial Review: Principles and Procedure* (OUP, 2013)

Education

Girton College, Cambridge, BA (Hons), Class I

Girton College Cambridge, LLM, Class I

Other

Major Scholarship, Inner Temple – 1995

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