
Leo Davidson

Leo accepts instructions in all areas of Chambers practice, with a particular focus on financial regulation, employment law, information law, regulatory law and public law.

He is ranked in Legal 500 2023 as a Tier 1 Rising Star in Local Government. He is “very able and provides sound, user-friendly advice”, and his “sophistication, advocacy and commercial awareness and vision are strong”. Clients also say that he “is forensic and gets into the detail and history of matters, particularly where they concern technical legal points or matters of statutory interpretation”.



Professional Summary

Called 2015

Specialisms

Financial Regulation

Financial regulation is an area of particular specialism for Leo, arising out of a period of secondment to the FCA early in his practice; he spent a short period in a Retail Enforcement team and a longer period in the Enforcement Law and Policy team. During this time he advised the FCA on a broad range of topics, including: the FCA’s supervision, investigation and enforcement powers (including its penalty policy); its competition powers; the implementation of the Market Abuse Regulation (MAR), the Markets in Financial Instruments Directive (MiFID II) and other EU instruments; and the implications of the Brexit vote.

Leo regularly advises on matters of financial regulation, including where these arise collaterally in the context of employment (including remuneration and exit agreements) or in public law.

He frequently drafts and advises on policies and contracts to ensure compliance with regulatory requirements. He also assists in connection with investigations and disciplinary processes at financial institutions, as well as litigation in the tribunals and civil courts. He also has experience of challenges to public authorities in the financial sector such as the Financial Ombudsman Service and the Financial Services Compensation Service.

Leo has contributed two chapters to *Conduct and Pay in the Financial Services Industry*, on “Sanctions” and “Enforcement Procedures” respectively, and wrote and maintains the chapter on “Financial Regulation” in *Tolley’s Employment Handbook*. He delivers seminars and training on financial services regulation to firms and to solicitors, and has also presented to regulators such as the Financial Conduct Authority and Payment Systems Regulator.

Recent and current matters include:

- Obtaining an interim non-disclosure order on behalf of a payments processor against a former employee who had retained and disseminated confidential information (High Court, 2023)
- Advising debt advisors on obligations under new Statements of Insolvency Practice and in connection with ongoing FCA consultation
- ***R (Portal Financial Services LLP) v Financial Ombudsman Service*** [2022] EWHC 710 (Admin), led by Stephen Kosmin for the Defendant, successfully resisting a renewed application for permission to judicially review 27 decisions, which had found the Claimant liable for 100% of losses caused by their lack of due diligence into the investments to be held within a SIPP wrapper.
- Advising a bank on its remuneration policy

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- ***R (Gate Capital Group Ltd) v FOS*** (High Court, refused permission in 2021), with Stephen Kosmin, resisting challenge to FOS' decision to require compensation to be paid.
- ***Sangiuliano v JCI Capital Limited and others*** (2202339/2020), successfully representing the Claimant in his claims of whistleblowing detriment and dismissal and unlawful deduction from wages. The Claimant had made protected disclosures about breaches of FCA rules, and was awarded £255,103,28.
- ***R (Wyllie Financial Services Ltd) v Financial Services Compensation Scheme and others*** (High Court, refused permission in 2020), for the Interested Party in connection with a challenge to a decision of the FSCS.
- In prospective judicial review against the FSCS, secured settlement of £122,000 following pre-action correspondence.
- Assisting a Citigroup employee in disciplinary proceedings for alleged conduct breaches relating to IOIs and alleged misleading of clients as to the identity of the counterparty.

Public law

Leo has appeared in several high profile cases in the Administrative Court, including challenges by local authorities to Government decisions. These cases have exposed him to the full range of duties on public bodies under statute, the Human Rights Act, EU law and principles of administrative law, including the duty to consult.

He also regularly advises public authorities, ranging from local authorities to regulators on their statutory powers and duties. He also frequently advises local authorities on disciplinary matters relating to elected members and officers.

Recent and current matters include:

- ***R (Ejiofor) v Local Government Ombudsman*** [2022] EWHC 3174 (Admin), challenging a decision of the LGO to name the Leader of a council in connection with maladministration findings.
- With Clive Sheldon KC, advising a local authority on its duties in connection with harbours and fisheries, in connection with ongoing and potential challenges to exercise of statutory powers.
- ***R (Portal Financial Services LLP) v Financial Ombudsman Service*** [2022] EWHC 710 (Admin), led by Stephen Kosmin for the Defendant, successfully resisting a renewed application for permission to judicially review 27 decisions, which had found the Claimant liable for 100% of losses caused by their lack of due diligence into the investments to be held within a SIPP wrapper.
- ***Hertfordshire County Council & Ors v SSHCLG*** [2021] EWHC 1093 (Admin) and [2021] EWHC 1145 (Admin), led by Peter Oldham KC representing the Claimants in this test case seeking a declaration from the Divisional Court that local authority meetings could proceed virtually after the lapse of the specific enabling statutory power.
- ***R (Yew Tree Primary School) v Secretary of State for Education*** [2021] EWHC 2084 (Admin), led by Jo Clement KC for the Claimant in the first successful challenge to a refusal to revoke an academy order.
- ***R (Thomson) v SSHSC and NHS Commissioning Board*** (refused permission by High Court and Court of Appeal, 2021), led by Jonathan Moffett KC representing NHS England in defending this claim alleging that it was under a duty to draw up a rationing scheme governing the allocation of intensive care beds should demand outstrip supply during the coronavirus pandemic.
- ***R (AA) v LGSCO*** (High Court, 2021), representing the Local Government Ombudsman in defending a challenge to its decision not to investigate certain complaints on the grounds that they were out of time.
- ***R (Sadaf) v LGSCO*** (refused permission by High Court, 2021), representing the Local Government Ombudsman in defending a challenge to its final decision.
- ***R (Shropshire And Wrekin Fire Authority) v SSHD*** [2019] EWHC 1967 (Admin), led by Peter Oldham KC, representing the Claimants challenging decisions by the Secretary of State to transfer their functions to the local Police and Crime Commissioners.
- ***R (Gate Capital Group Ltd) v FOS*** (High Court, refused permission in 2021), with Stephen Kosmin, resisting challenge to FOS' decision to require compensation to be paid.

Regulatory law

Leo has extensive experience with a number of regulatory regimes, in addition to his specialist knowledge of financial regulation (see “Financial Regulation”).

He is on the Bar Standards Board’s panel of prosecutors and frequently advises and appears in Disciplinary Tribunal and High Court proceedings.

He has also conducted disciplinary investigations for the Institute of Engineering and Technology, and advised regulators such as the Gambling Commission and Information Commissioner on their statutory powers. He has also advised on and drafted enforcement notices and monetary penalty notices, and advised on and appeared in challenges to these in the Tribunals.

Leo has a broad understanding of sports regulation, particularly following his work on the Sheldon Independent Review into Child Sexual Abuse in Football, which published its report in March 2021.

- ***Bibi v Bar Standards Board*** [2022] EWHC 921 (Admin), [2022] ACD 69, successfully resisting an appeal against disbarment in the High Court (permission to appeal refused by the Court of Appeal in 2023)
- ***Rancom Security Limited v Information Commissioner*** (FTT, 2021), successfully representing the Commissioner in appeals against monetary penalty notices for unsolicited direct marketing communications, in breach of the Privacy and Electronic Communications Regulations.
- Advising in relation to disciplinary action by the Teaching Regulation Agency
- ***Bar Standards Board v X KC***, led by Jonathan Auburn KC, in highly sensitive disciplinary proceedings against a prominent King’s Counsel (stayed as at 2023)
- ***Doorstep Dispensaree Ltd v Information Commissioner*** (FTT, 2020), drafted pleadings and advised Appellant on litigation in FTT appeal against the first data protection fine imposed by the Information Commissioner under the GDPR and DPA 2018.
- Advising one of the medical Royal Colleges on its examinations policy.
- Advising Facebook and Whatsapp in connection with various data protection enforcement actions.
- Drafting (with Clive Sheldon KC) an investigations and disciplinary policy and procedure for a religious national certification body.

Employment law

Leo regularly appears in the Employment Tribunal and Employment Appeal Tribunal (including judicial mediations) in all manner of employment disputes, including unfair and wrongful dismissal, various forms of discrimination under the Equality Act and other legislation, holiday pay, trade union disputes and TUPE.

He also frequently advises on internal investigations and disciplinary proceedings, particularly in connection with FCA-regulated firms.

Recent and current matters include:

- ***Royal Mencap Society v Tomlinson-Blake*** [2021] UKSC 8; [2021] ICR 758, led by Sean Jones KC representing the Appellants, relating to the entitlement of sleep-in workers to national minimum wage.
- ***Morgan v Buckinghamshire Council*** [2022] EAT 160, resisting five grounds of appeal against the dismissal of claims for unfair dismissal and discrimination arising from disability and pursuing two grounds against a finding of harassment
- ***Ralli v Stott*** [2022] IRLR 148, representing the Appellant in an appeal against the rejection

of her claims of disability discrimination, on grounds that the ET judge had failed to make proper findings on the relevant issues.

- ***Sangiuliano v JCI Capital Limited and others*** (2202339/2020), successfully representing the Claimant in his claims of whistleblowing detriment and dismissal and unlawful deduction from wages. The Claimant had made protected disclosures about breaches of FCA rules. A hearing to decide remedy is listed in early 2022.
- ***Gunathilake v Cross and Wells Limited*** (EAT, 2019; Court of Appeal, 2021), representing the Respondent in resisting various appeals on procedural and perversity grounds.
- ***Conisbee v Crossley Farms Ltd*** (EAT, 2020), led by Marcus Pilgerstorfer KC for the Respondents, in an appeal relating to whether vegetarianism was a protected belief for the purposes of the Equality Act 2010.
- ***Grabe v Synod of German-speaking Lutheran, Reformed and United Congregations in Great Britain*** (2200328/2016), representing the Synod and two individual Respondents in 8-day trial, successfully resisting claims of unfair and wrongful dismissal, sex and disability discrimination and victimisation, equal pay, part-time worker discrimination and breach of contract.

Commercial law

Leo has been involved in a number of commercial law matters, advising on and assisting with both contentious and non-contentious issues. These have involved matters such as team moves, springboard injunctions, fiduciary duties, economic torts, share transfers, misrepresentation and deceit. He has particular experience of commercial litigation in the finance and credit industry, frequently advising and representing banks, investment firms and credit reference agencies.

Recent and current matters include:

- Obtaining an interim non-disclosure order on behalf of a payments processor against a former employee who had retained and disseminated confidential information (High Court, 2023)
- ***Alser (UK) Limited v (1) Ross Harris, (2) Michael Dodds, and (3) Chameleon (Co) Limited*** (QBD, 2020-21), representing two Defendants against allegations of breach of fiduciary duty, breach of contract, breach of confidence and conspiracy to injure by unlawful means.
- ***Ved v Chauhan*** (County Court, 2020), representing the Defendants/Counter-claimants in litigation arising from a disputed share transfer.
- ***Kyriakou v Christie Manson and Woods Ltd*** [2017] EWHC 487 (QB), representing innocent third party Respondents to an application for a Banker's Trust order.
- Advising on settlement contracts where issues were being concurrently litigated in England and abroad.

Information law

Leo has extensive experience of matters ranging from freedom of information, data protection and privacy and electronic communications, both domestically and in an EU context. He is regularly instructed in data protection claims in the High Court and County Court, as well as freedom of information cases and appeals against monetary penalty notices in the First-tier Tribunal and Upper Tribunal. He has also been instructed by the Information Commissioner in High Court challenges to the Commissioner's exercise of discretion under the Complaints procedure provided for in the Data Protection Act 2018. He frequently advises on commercial issues relating to the UK and EU GDPRs, such as third-country data transfers and indemnities.

Leo is currently co-writing a book titled *A Practical Guide to Data Protection, Privacy and Information Law*, to be published by the Law Society in early 2024.

Leo's recent and current matters include:

- ***Davies v Information Commissioner and Thurrock Council*** [2022] UKFTT 375 (GRC), successfully representing the Bureau of Investigative Journalism in challenging Thurrock Council's refusal to disclose information relating to its borrowing and investments, which

have now led to the council being subjected to Government intervention.

- **Barrett v Information Commissioner** (UT, 2023), on behalf of the Information Commissioner, in relation to closed material procedure and gisting in the context of paper hearings.
- **Gordon v Information Commissioner** [2020] UKUT 92 (AAC), representing the Information Commissioner in successfully resisting this appeal, relating to the interpretation of the FOIA and the Commissioners of Revenue and Customs Act 2005.
- **Shaw v Arts Council England** (FTT, 2020; UT, 2021), representing the Arts Council in successfully defending this FOIA appeal relating to the provenance of a celebrated portrait, and successfully resisting the appeal.
- Advising Facebook and Whatsapp in connection with various data protection enforcement actions.
- Advising the Information Commissioner regarding potential enforcement action against a public body regarding its processing of data, and possible use of automatic decision-making, during the coronavirus pandemic.
- Acting for a high street building society in the High Court in an application to strike out a claim relating to its registration of a marker on the Credit Industry Fraud Avoidance System database.
- Acting for a sports governing body in a High Court claim relating to safeguarding procedures, defending allegations of misuse of private information, breach of contract, breach of confidence, unlawful processing of personal data and failure to comply with a data subject access request.
- Acting for a credit reference agency in the County Court defending serial claims relating to alleged processing of a former identity and refusal to erase data.

Education law

Leo also acts in and advises on all manner of education cases, frequently where these have a data protection or regulatory angle. He has extensive knowledge of safeguarding law and practice, particularly arising from his work on the Sheldon Independent Review into Child Sexual Abuse in Football.

He contributed a chapter on Independent Schools to the *Education Law Handbook*, published by LexisNexis. He also acts as a mentor for the Schools Exclusion Project.

- **R (Yew Tree Primary School) v Secretary of State for Education** [2021] EWHC 2084 (Admin), led by Jo Clement KC for the Claimant in the first successful challenge to a refusal to revoke an academy order.
- **Kinouani v Staffordshire University** (County Court, 2020-21), representing the Defendant University in various claims of breach of contract and disability discrimination arising from the Claimant's doctorate programme.
- **Sterne v LB Islington** (ET, 2020-21), representing the local authority responding to serial claims of discrimination and unfair dismissal.
- **Bryce v Trinity Hall** (County Court), succeeding on behalf of the College in getting various claims of breach of contract, misuse of private information and data breaches struck out, appeals dismissed and judicial reviews refused.
- Advising the Student Union of a major university on the application of the Equality Act 2010 to clubs and societies.

Recent Cases

R (Ejiofor) v Local Government Ombudsman [2022] EWHC 3174 (Admin)

Morgan v Buckinghamshire Council [2022] EAT 160

Davies v Information Commissioner and Thurrock Council [2022] UKFTT 375 (GRC)

Bibi v Bar Standards Board [2022] EWHC 921 (Admin), [2022] ACD 69

R (Portal Financial Services LLP) v Financial Ombudsman Service [2022] EWHC 710 (Admin)

Ralli v Stott [2021] ICR 758; [2022] IRLR 148

Royal Mencap Society v Tomlinson-Blake [2021] UKSC 8; [2021] ICR 758

R (Yew Tree Primary School) v Secretary of State for Education [2021] ELR 809; [2021] EWHC 2084 (Admin)

Hertfordshire County Council & Ors v SSHCLG [2021] 1 WLR 3714; [2021] EWHC 1093 (Admin) and [2021] EWHC 1145 (Admin)

Gordon v Information Commissioner & HMRC [2020] UKUT 92 (AAC)

R (Shropshire And Wrekin Fire Authority) v SSHD [2019] PTSR 2052; [2019] EWHC 1967 (Admin)

News, Articles & Publications

Co-author, A Practical Guide to Data Protection, Privacy and Information Law, Law Society (forthcoming in 2024)

Contributor, Conduct and Pay in the Financial Services Industry, Routledge

Contributor, Tolley's Employment Handbook, LexisNexis

Contributor, Education Law Handbook, LexisNexis

The Coronavirus lockdown does not breach human rights , UK Human Rights Blog, April 2020



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