
Patrick Halliday

Patrick Halliday is an experienced and highly regarded specialist in employment and procurement law. He is named as a leading practitioner in both areas by **Chambers & Partners**, by the **Legal 500** and by **Who's Who Legal**.

The most recent editions of the directories comment that he is:

“a brilliant barrister with a ferociously insightful mind, who is enormously client-friendly and reassuringly calm at all times”;

“a man of real intellectual sharpness”;

“very easy to get on with, very bright and very client-friendly”;

“an excellent junior counsel able to handle independently complex procurement law cases”;

“reliably and consistently excellent”;

“meticulously well prepared”;

“extraordinarily incisive and clear in his analysis ”;

“clear-thinking and able to explain complex issues in a very logical way ”, and that he has a

“calm and persuasive demeanour that works wonders with judges”.

Patrick also practises in public, commercial and public sector pensions law. His commercial work focuses on claims against former employees and directors, including applications for urgent injunctive relief. His pensions work includes acting in disputes concerning the local government pension scheme and other public sector schemes, as well as providing regular advice to administering authorities.

Specialisms

Employment

Patrick is a highly experienced Tribunal advocate, having acted in dozens of multi-day trials and numerous appeals to the EAT. Much of his recent work has involved discrimination and whistleblowing claims in the financial services and health sectors.

In the High Court, Patrick regularly makes and resists applications for interim relief against current and former employees and directors. He is instructed as sole counsel in two High Court trials in 2017 of claims against former employees who are alleged to have misused confidential information and breached their duties of fidelity.

Patrick's recent and ongoing employment cases include:

- **X v Y Ltd** UKEAT/0261/17JQJ, EAT, [2019] IRLR 516. Lawyer's email advised an employer



Professional Summary

Called 2005

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that a genuine redundancy exercise could be used as a cloak to dismiss an employee for making disability discrimination complaints – Not protected by legal advice privilege;

- **Asda Stores Ltd v Brierley & others** (ongoing) (led by Lord Falconer of Thoroton QC and Chris Jeans QC): the largest ever claim for equal pay in the private sector, involving 12,000 claimants, various reported decisions including [2016] EWCA Civ 566, [2016] ICR 945, CA (appropriate forum); [2017] IRLR 785, EAT (claimants doing different jobs could not use same claim form); [2017] IRLR 1058, EAT (comparability of workers in different establishments);
- **Aarons & others v Commissioner of Police of the Metropolis & others** (ongoing) (led by Clive Sheldon QC): Patrick acts for 43 police forces nationwide, defending claims by approximately 15,000 police officers that pension reforms involve age, sex and race discrimination because they include transitional protection for those officers who are closest to retirement;
- **Bridge McFarland v Jones** (2016) (sole counsel): obtaining urgent interim relief at a contested hearing before Rose J against a law firm's ex-employee, injunctioning him from using or selling various domain names and websites, and obliging him to provide an affidavit describing his dealings in the same;
- **Shrestha v Genesis Housing Association Limited** [2015] EWCA Civ 94, [2015] IRLR 399 (sole counsel): scope of requirements for a fair investigation before dismissal;
- **LS Systems v Scott** [2015] EWHC 1335 (Ch) (with Julian Wilson): successful claims arising out of £1.4m misappropriation of company funds (breach of fiduciary duty, declaration of constructive trust, and proprietary orders over properties into which trust funds were traced);
- **Ali Dizaei v Commissioner for the Metropolitan Police** (2015) (led by Clive Sheldon QC): high profile race discrimination and victimisation claim, named by The Lawyer as one of its 'Top 20 Cases of 2013';
- acting (led by Daniel Stilitz QC) for a well-known global investment bank in a high value sex and pregnancy discrimination claim.

Patrick is the author of the chapter on 'The Remuneration Codes' in *Conduct and Pay in the Financial Services Industry* (2017, Routledge, ed Ogg and Leiper); and the chapter on 'European Union Law' in *Tolley's Employment Handbook* (2016, LexisNexis).

Procurement & State Aid

Patrick is a highly regarded specialist in procurement law and State aid. He is named as a leading junior in the area in **Chambers & Partners** and the **Legal 500**. The most recent editions of the directories say:

"Has a really flexible, user-friendly approach and totally understands what is required in a case. You don't have to explain things to him."

"An excellent junior counsel able to handle independently complex procurement law cases."

"A lot of juniors profess to know something about procurement law but only dabble in it. Patrick on the other hand is a genuine force in the area."

"He understands the time demands faced by solicitors, is quick to respond and has good judgement."

In addition to his advisory work, his recent court cases include:

- **Department of Transport v West Coast Trains Partnership** [2019] EWCA Civ 2259, CA, December 18 2019, [2020] 1 P&CR 17; 188 Con LR 31
Applicable time limit for the bringing of other claims arising out of a public procurement process which is not governed by the Public Contracts Regulations
- **R (Wylde) v Waverley BC** [2017] EWHC 466 (Admin); [2017] ACD 167 (led by Nigel Giffin QC and Jason Coppel QC): claim that variation of development agreement amounted to new contract which could not be awarded without new procurement competition; leading

decision on the restrictions on 'standing' for judicial review challenges to procurement decisions;

- **Churchers Bolitho Way and others v (1) Ministry of Justice (2) The Lord Chancellor** (2015-16): acting as sole counsel for a number of the many claimants in this challenge to the tender procedure for criminal legal aid services (named by The Lawyer as one of its 'Top 20 Cases of 2015');
- **Com Ltd v The Minister for the Cabinet Office** (2015) (led by Philip Moser QC of Monckton): acting for the Cabinet Office in defence of the Crown Commercial Service's procurement of a £2bn framework agreement for healthcare workers;
- **Fujitsu Services Ltd v (1) Department for Transport (2) IBM United Kingdom Ltd** (led by Nigel Giffin QC) (interim decision reported at [2014] EWHC 1177 (Ch)): challenge to novation of public contract without a competition when the contractor's business was acquired by a third party;
- **Shepherd Offshore Ltd v North Tyneside Council** (2013) (led by Nigel Giffin QC): litigation which included both a claim under the Public Contracts Regulations 2006, and a judicial review challenge to the alleged grant of state aid.

Increasingly, his procurement work has involved advising on State aid. He has advised on the State aid aspects of transport infrastructure, support for community services, guaranties for 'in-house' procurement bids by local authorities and regeneration projects.

Patrick edits (with Jason Coppel QC and Joseph Barrett) 11KBW's Procurement & State Aid Briefing.

Public

Patrick has been a member of the Attorney General's 'B' panel since March 2014, having previously been on the 'C' panel, and has acted in numerous claims for judicial review across a range of areas, including prisons, immigration, social security, libraries, human rights and the public sector equalities duty. His public law work includes the following.

- **R (Hurst) v London North District Coroner** [2007] UKHL 13 and **Jordan v Lord Chancellor** [2007] UKHL 14 (led by the Attorney General and Philip Sales QC): Article 3 ECHR, coroners' inquests and application of the Human Rights Act 1998 to deaths pre-dating the Act;
- **R (Moyse) v Secretary of State for Education** [2012] ELR 551 (led by Clive Sheldon QC): the only reported case on academy conversions under the Academies Act 2010;
- **R (Williams) v Surrey County Council** [2012] Eq LR 656 (led by Elisabeth Laing QC): library services and the public sector equalities duty;
- **R (Clulow) v Secretary of Work and Pensions** [2013] EWHC 3241 (Admin), [2013] All ER (D) 320 (Oct) (sole counsel for Secretary of State): successfully resisted claim that the system for community care grants breached Article 14 of the ECHR;
- **R (Manning) v Secretary of State for Justice** [2013] EWHC 1821 (Admin), [2013] All ER (D) 43 (Jul) (sole counsel for Secretary of State): lawful reversal of recategorisation decision;
- **Police and Crime Commissioner for Greater Manchester v Butterworth (The Pensions Ombudsman intervening)** (Chancery Division, 10th November 2016) (led by Paul Newman QC): public sector pensions case concerning the enforceability of ultra vires promises by local authorities and legitimate expectations;
- **R (Wylde) v Waverley BC** [2017] EWHC 466 (Admin); [2017] ACD 167 (led by Nigel Giffin QC and Jason Coppel QC): leading decision on the restrictions on 'standing' for judicial review challenges to procurement decisions.

Between 2008 and 2011 Patrick was junior counsel to the Baha Mousa Inquiry into the death of Baha Mousa in British Army custody in Iraq in 2003 and into the use of "conditioning" techniques by British soldiers. During approximately 100 days of witness evidence Patrick was responsible for examining numerous witnesses on behalf of the Inquiry.

Commercial

Patrick's commercial work focuses on claims against former employees and directors, including applications for urgent injunctive relief.

Patrick regularly represents both claimants and defendants in applications for interim relief in the Chancery Division and in the Queen's Bench Division.

His recent and current commercial work includes:

- **OCS Group Ltd v Ahitan & others** (ongoing) (sole counsel): acting for defendant employee in claim in Chancery Division for alleged misuse of confidential information;
- **Universal Lifting & Moving Services Ltd v Kavanagh** (ongoing) (sole counsel): acting for claimant company in claim against its former managing director that he destroyed its business by resigning without sufficient notice, diverting business to a competitor and soliciting other employees to join a competitor;
- **Bridge McFarland v Jones** (2016) (sole counsel): obtaining urgent interim relief at a contested hearing before Rose J against a law firm's ex-employee, injunctioning him from using or selling various domain names and websites, and obliging him to provide an affidavit describing his dealings in the same;
- **Wolverhampton City Council v Mitie Property Services (UK) Ltd** (2015) (led by Tim Kerr QC): multi-million pound pensions claim in Chancery Division involving allegations of conspiracy (settled during trial);
- **National Car Parks Limited v Borough Council of Worthing** (2014) (sole counsel): breach of contract claim in the Mercantile Court concerning mistake, rectification and public law defences concerning vires and agents' authority.
- **Allen & Others v Sutton & Merton Primary Care Trust** (2013) (sole counsel): contract claim by GPs under personal medical services agreement for reimbursement of employer's pension contributions.

Public Sector Pensions

Patrick acts in disputes concerning the local government pension scheme and other public sector schemes.

He also provides regular advice to administering authorities on a wide range of issues. Examples include the issue of whether employers in the local government pension scheme may obtain a discount on their contributions by paying them early; and whether the executive head of a federation of academy schools is eligible for membership of the teachers' pension scheme.

Patrick has also acted for and advised the Pension Protection Fund in references to the PPF Ombudsman; and acted for the Pensions Ombudsman in the High Court exercising its jurisdiction in appeals against decisions of the Ombudsman.

Patrick's recent cases include:

- **R (BT plc) v HM Treasury** [2020] EWCA Civ 1, CA (Civ), January 21 2020, [2020] Pens LR 12: HM Treasury's decision to implement full indexation of the guaranteed minimum pension (GMP) payable to members of public service pension schemes who reached state pension age between December 2018 and April 2021 was upheld;
- **Sanderson v NHS Business Services Authority** [2019] EWHC 2900 (Ch), November 4 2019, [2020] ICR 905: Death in service under NHS pension scheme – Whether locum practitioner in pensionable employment between contracts;
- **Police and Crime Commissioner for Greater Manchester v Butterworth (The Pensions Ombudsman intervening)** (Chancery Division, 10th November 2016) (led by Paul Newman QC): appeal against a determination by the Pensions Ombudsman that a member of the LGPS should be paid a pension equivalent to the full amount of an unreduced pension from the age of 55, raising issues of contractual estoppel, enforceability of ultra vires

promises and legitimate expectations;

- **Wolverhampton City Council v Mitie Property Services (UK) Ltd** (2015) (led by Tim Kerr QC): multi-million pound claim in Chancery Division by which the administering authority of a LGPS fund sought to recover an 'exit debt' from a transferee admission body;
- **Stokes v Oxfordshire County Council [2014] Pens LR 631, [2014] EWHC 2177 (Ch)** (sole counsel): in the context of the Firemen's Pension Scheme, the calculation of "pensionable pay for the year ending with the relevant date" did not include arrears of pay for work which had been performed in previous years but had been paid in the year ending with the relevant date.

Inquests, Inquiries & Investigations

Between 2008 and 2011 Patrick was junior counsel to the Baha Mousa Public Inquiry into the death of Baha Mousa in British Army custody in Iraq in 2003 and into the use of "conditioning" techniques by British soldiers. During approximately 100 days of witness evidence Patrick was responsible for examining a number of witnesses on behalf of the Inquiry.

Recommendations

Patrick is recommended as a leading junior for both procurement law and employment law in both the **Legal 500** and **Chambers & Partners**. The directories have published the following comments about him:

"He's a brilliant barrister with a ferociously insightful mind, who is enormously client-friendly and reassuringly calm at all time."

"Thorough, hard-working and a man of real intellectual sharpness."

"Incredible work ethic, very thorough, totally on top of the detail, with clear and concise advice. An able advocate, who inspires confidence and is thoroughly likeable. As a solicitor you feel very well supported."

"Very hard-working, great depth of knowledge of procurement law, very personable. His paper work, pleadings, skeleton arguments and opinions are readable and of the highest calibre."

"Very easy to get on with, very bright and very client-friendly."

"Has a really flexible, user-friendly approach and totally understands what is required in a case. You don't have to explain things to him."

"An excellent junior counsel able to handle independently complex procurement law cases."

"calm and persuasive demeanour that works wonders with judges";

"is meticulously well-prepared";

"knows his cases inside out";

"a very strong junior";

"extremely fast-thinking";

"an excellent cross-examiner";

"a confident and reliable advocate";

"has a simply incredible recall of fine points of law and facts";

"has real skill in distilling complex scenarios".

Recent Cases

Hughes v Board of the Pension Protection Fund

Admin Ct, June 22 2020, [2020] EWHC 1598 (Admin), [2020] ACD 95
Provisions in the Pensions Act 2004 which capped the amount of compensation payable to members of occupational pension scheme were discriminatory on grounds of age

R (BT plc) v HM Treasury

[2020] EWCA Civ 1, CA (Civ), January 21 2020, [2020] Pens LR 12
HM Treasury's decision to implement full indexation of the guaranteed minimum pension (GMP) payable to members of public service pension schemes who reached state pension age between December 2018 and April 2021 was upheld;

Sanderson v NHS Business Services Authority

[2019] EWHC 2900 (Ch), November 4 2019, [2020] ICR 905
Death in service under NHS pension scheme – Whether locum practitioner in pensionable employment between contracts;

Department of Transport v West Coast Trains Partnership

[2019] EWCA Civ 2259, CA, December 18 2019, [2020] 1 P&CR 17; 188 Con LR 31
Applicable time limit for the bringing of other claims arising out of a public procurement process which is not governed by the Public Contracts Regulations

Curless v Shell International

[2020] EWCA Civ 1710; CA, October 22 2019; [2019] IRLR 36
Lawyer's email advising an employer in relation to an employee's possible redundancy was protected by legal advice privilege

West Coast Trains Partnership v Department for Transport

[2019] EWHC 2047 (TCC); QBD (TCC), July 31 2019; 185 Con LR 163
Arguments raised by train operating companies in CPR Pt 7 claims that they had brought arising from the conduct of procurement exercises for rail franchises would not be struck out on limitation or abuse of process grounds

AEW Europe v Basingstoke and Deane Borough Council

[2019] EWHC 2050 (TCC) QBD (TCC), August 2 2019 [2019] BLR 481
No grounds for a declaration of ineffectiveness of a public procurement contract

X v Y Ltd

UKEAT/0261/17J0J; EAT; [2019] IRLR 516
Lawyer's email advised an employer that a genuine redundancy exercise could be used as a cloak to dismiss an employee for making disability discrimination complaints – Not protected by legal advice privilege.

R (DSD) v Parole Board of England and Wales

[2018] EWHC 694 (Admin), [2018] 3 All ER 417; [2018] HRLR 12, Div Ct, March 28 2018
Prohibition on making information public about Parole Board proceedings was too broad.

Asda Stores v Brierley

[2017] IRLR 1058, EAT
Female retail staff could bring equal pay claim on the basis that they were in 'the same employment' as the comparators, even though no comparator worked in the same establishment.

Fenton v Asda Stores Ltd

[2017] IRLR 785, EAT, June 20 2017
Multiple equal pay claims made by claimants who were performing different jobs could not be included in the same ET1 claim form.

R (Wylde) v Waverley BC

[2017] EWHC 466 (Admin); [2017] ACD 167

Claim that variation of development agreement amounted to new contract which could not be awarded without new procurement competition; leading decision on the restrictions on 'standing' for judicial review challenges to procurement decisions.

Police and Crime Commissioner for Greater Manchester v Butterworth (The Pensions Ombudsman intervening)

(Chancery Division, 10th November 2016)

Appeal against a determination by the Pensions Ombudsman that a member of the LGPS should be paid a pension equivalent to the full amount of an unreduced pension from the age of 55, raising issues of contractual estoppel, enforceability of ultra vires promises and legitimate expectations.

Asda Stores v Brierley

[2016] EWCA Civ 566; [2016] IRLR 709; Times, July 28 2016

A Tribunal cannot use its case management powers to stay equal pay proceedings in the Tribunal indefinitely on the basis that the High Court is the more appropriate forum.

Shrestha v Genesis Housing Association Ltd

[2015] EWCA Civ 94; [2015] IRLR 399

Guidance on what amounts to a reasonable investigation into an employee's misconduct.

Stokes v Oxfordshire County Council

[2014] Pens LR 631, [2014] EWHC 2177 (Ch)

In the context of the Firemen's Pension Scheme, the calculation of "pensionable pay for the year ending with the relevant date" did not include arrears of pay for work which had been performed in previous years but had been paid in the year ending with the relevant date.

R (Clulow) v Secretary of Work and Pensions

[2013] EWHC 3241 (Admin), [2013] All ER (D) 320 (Oct)

Successfully resisted claim that the system for community care grants breached Article 14 of the ECHR.

R (Manning) v Secretary of State for Justice

[2013] EWHC 1821 (Admin), [2013] All ER (D) 43 (Jul)

A prison governor who had relied on a flawed risk assessment form when approving the recategorisation of a prisoner from Category C to open conditions had been entitled to reverse his decision upon learning that the form had omitted to refer to an unsatisfied confiscation order.

Shepherd Offshore Ltd v North Tyneside Council; R (Shepherd Offshore Ltd) v North Tyneside Council

(2013, TCC and Admin Court)

Acted for defendant authority in two sets of proceedings (one a claim under the Public Contracts Regulations 2006, the other a JR challenge to the alleged grant of state aid) which challenged arrangements for installation of an industrial crane.

R (Moyle) v Secretary of State for Education

[2012] EWHC 2758 (Admin), [2012] ELR 551

The Secretary of State was not bound to accept the majority view of parents in a primary school that it should not become an academy but remain a local authority maintained school.

R (Williams) v Surrey County Council

[2012] EWHC 867 (QB), [2012] Eq LR 656

Council failed to have 'due regard' to the matters set out in s.149(1) of the Equality Act 2010 when it decided to deliver library services in certain areas via a Community Partnership model.

Baha Mousa Public Inquiry

(2008 – 2011)

Junior Counsel to the Inquiry into the death of Baha Mousa in British Army custody in Iraq in 2003 and into the use of "conditioning" techniques by British soldiers.

Emmanuel v City & Hackney Teaching Primary Care Trust and Secretary of State for Health

[2011] EqLR 1291

Junior Counsel for Secretary of State — equal pay — NHS nurses — national test case — genuine material factor defence (market forces) made out.

R (Bozzo) v Secretary of State for Welfare and Pensions

[2010] EWHC 3571 (Admin)

Human rights challenge to the eligibility rule for community care grants under the Social Fund — the need for a qualifying benefit — where applicant in need but in receipt of contributory-based incapacity benefit — whether incompatible with Article 14 and Article 1 of Protocol 1.

Beattie and others v Leicester City Council

[2009] UKEAT0386/09/SM

Whether by implied agreement support staff in voluntary aided schools were employed by the local education authority so that they could rely on local authority comparators in equal pay claims.

Teva (UK) Limited v Heslip

[2009] All ER (D) 277 (Jul) (EAT)

Date of dismissal — time limits for bringing claim — reasonable practicability of bringing claim within three months.

R (Hurst) v London North District Coroner

[2007] UKHL 13

Junior Counsel for the Lord Chancellor in appeals to the House of Lords concerning the impact of article 2 of the European Convention on Human Rights on coroners' inquests. Led by Phil Sales QC and Lord Goldsmith.

Appointments

Attorney General's 'B' Panel of Counsel (since 2014)

News, Articles & Publications

'The Remuneration Codes' in *Conduct and Pay in the Financial Services Industry* (2017, Routledge, ed Ogg and Leiper)

'European Union Law' in *Tolley's Employment Handbook* (2016, LexisNexis)

Joint editor of 11KBW's Procurement & State Aid Briefing

Restitution and Public Bodies (Judicial Review Vol 12 Issue 3)

Education

First class degree in Social and Political Sciences from Pembroke College, Cambridge University

Distinction in the law conversion course at City University

Other

Bedingfield Scholarship and Arden Senior Scholarship from Gray's Inn

Foundation Scholarship and a Foundress Prize from Pembroke College

Major scholarship from Haileybury College

Member of ELBA, ALBA, ELA, PLA, CBA



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