Nigel Giffin KC

Silk: 2003 Call: 1986

E: Nigel.Giffin@11kbw.com
T: +44 (0)20 7632 8500



Nigel Giffin practises mainly in the field of public law at 11KBW, although he still undertakes employment law and commercial law cases of certain kinds. His practice covers commercial and environmental judicial review, as well as many aspects of local government law including education, social services, housing, powers and finance and elections. He was formerly a member of the Attorney General's "A" panel of Counsel to the Crown, and undertook a number of important Human Rights Act cases in this capacity.

He is a CEDR accredited mediator, and has undertaken a number of mediations as both mediator and counsel.

Nigel studied law at Oxford, where he was awarded a first in his degree. He is the author of the chapter on Administrative Court proceedings in Foskett's Law and Practice of Compromise, and a member of the editorial board of Butterworths Local Government Reports.

Nigel has recently been acting as counsel to the Public Inquiry into the murder of Zahid Mubarek at Feltham Young Offenders' Institution.

> ***Nigel is a very bright and very experienced advocate.***
>
> CHAMBERS & PARTNERS

Expertise

Local government employment and superannuation

Nigel began his career as a specialist employment lawyer, appearing in many significant cases including several of the early leading decisions on the application of TUPE to the contracting-out of services, and has continued to take an interest in the field, particularly as it relates to public sector employment (for example, he appeared in the first case on the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 to reach the Supreme Court, **Duncombe v Secretary of State for Children Schools and Families** [2011] UKSC 14). He has also developed a particular interest in the public law aspects of pension provision, including statutory superannuation schemes, and is currently acting for several trade unions in a challenge to the switch from RPI to CPI as an uprating measure in public sector pension schemes.

Examples of his work include:

- Advising many local authorities on employment issues concerning senior officers, including remuneration, disciplinary measures and termination of employment, and severance terms. He appeared in the leading case of **Foster v Eastbourne BC** [2004] LGR 275.
- Advising individual officers on potential claims against local authority employers.
- Appearing for the local authority in the only reported case concerning the role of a designated independent person (**Leatham v Hillingdon LBC** [2007] LGR 45).
- Advising authorities on schemes for compensation on the termination of employment, including associated age discrimination issues.
- Advising local authorities and trade unions on the conduct and implications of outsourcing exercises, including the application of TUPE, the use of social clauses in the light of the Local Government Act 1988, and the implications of the former Code of Practice on Workforce Matters, and the Best Value Authorities Staff Transfers (Pensions) Direction 2007. He appeared in leading TUPE cases such as **Kenny v South Manchester College** [1993] ICR 934 and **Dines v Initial Health Care Services Ltd** [1995] ICR 11.
- Advising on the proper attribution of deficits in multi-employer superannuation funds and on the setting of employer contributions.
- Advising on the proper use of admission agreements for superannuation funds, and the consequences of termination of such agreements.

- Appearing in dismissal, discrimination and equal pay claims in the employment tribunal, as well as cases on appeal from the tribunal such as **Wandsworth LBC v D'Silva** [1998] IRLR 193 on the incorporation of staff handbooks into contracts of employment, and **Hammersmith & Fulham LBC v Jesuthasan** [1998] ICR 640. He also has experience in dealing with industrial action disputes, and has appeared in a number of such cases, including in the local government context **Wandsworth LBC v NASUWT** [1994] **ICR 81 and P v NASUWT** [2003] 2 AC 663.