Jonathan Auburn KC

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Jonathan is a KC practicing in the fields of public law / judicial review, local government, education law, community care, healthcare law, mental capacity, and disciplinary law. He also regularly undertakes investigations on behalf of public sector clients. Throughout his practice he has been recommended by the legal directories as a leading practitioner in five categories: administrative and public law, local government law, community care education law, and mental capacity / Court of Protection.

Jonathan is co-author of OUP's highly-rated text on public law, 'Judicial Review: Principles and Procedure (2nd ed 2026), as well as writing for the White Book, Phipson on Evidence, and the LexisNexis Education Law Handbook. Jonathan is a former member of the Attorney General's A-panel of advocates.

Jonathan is originally from Australia, where he graduated with first class honours, before completing a BCL and D.Phil at Magdalen College, Oxford. Prior to coming to the bar he worked in Australia as a solicitor and as a judicial assistant in Australia's highest court, the High Court of Australia, and in the UK as judicial assistant to Lord Woolf MR.

> ***Very good at setting out what the law is in complicated cases***
>
> CHAMBERS AND PARTNERS

Expertise

Public

Jonathan is a KC in the field of public / administrative law and local government law. He is highly ranked in legal directories across five areas of public law and local government work.

Jonathan regularly represents a number of central government departments, as well as local government, health bodies and individuals. His current work includes:

- representing the Ministry of Defence in the Covid Inquiry;
- advising a large number of local authorities, and the Local Government Association, in the implementation of the new "Fair Cost of Care" guidance and setting care home fee rates;
- defending two separate challenges to decisions to decline to hold public inquiries into allegations of historic abuse;
- defending a University that cancelled a pro-Palestinian art exhibition; the challenge alleging breach of Article 10 free speech rights and discrimination;
- defending a challenge alleging that substantial cuts to a service's budget was decided unlawfully;
- defending a claim that a local authority discriminated against committed Christians in declining to further their application to become foster parents;
- a dispute as to the circumstances in which a public officials could be sanctioned for tweets on issues of political and social debate (transgender rights); and
- defending a consultation and equalities challenge to a regional service reorganisation.

> ***Extensive knowledge of local government matters***
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> CHAMBERS & PARTNERS

Jonathan also provides representative associations, including the Local Government Association, ADASS and the Bar Standards Board with strategic advice on national policy issues, particularly on policy reform, human rights and free speech issues in his areas of expertise.

Inter-agency Disputes
Jonathan has extensive experience of responsibility and finding disputes between governmental bodies, including disputes between central and local government, between different local authorities, and disputes between local authorities and ICBs. These include both judicial review claims, and restitution claims brought as Part 7 claims. Recent cases include –

- a three-way dispute between two local authorities and an ICB as to who is responsible, and who pays, for an individual's s.117 mental health aftercare package;
- a dispute between a local authority and an ICB as to eligibility for continuing healthcare (CHC) funding, including both a restitution claim for past care provided by the local authority, and a challenge to the latest eligibility decision by the ICB;
- bringing a £1m restitution claim by a local authority against an ICB for the ICB's failure to fund care, leaving the local authority to fund that care for many years;
- a claim by a local authority that another local authority should compensate it for the cost of past social care provided to a person who moved between local authority areas; and
- a three-way dispute as to who should pay for care provided to a disabled student living in student accommodation away from his parents' home area.

Governance

Jonathan is currently acting on a number of local authority governance matters, including:

- advising a monitoring officer in relation to an elected member's non-disclosure of pecuniary interests, as well as regarding the effect on the resulting decision;
- a complaint against an elected member concerning standards; and
- acting as independent investigator, investigating allegations that a Councillor's use of social media breached Council policies and the Nolan Principles.

Local Government Finance

Jonathan has extensive experience in advising on local authority finance and budgetary matters, and in bringing and defending claims relating to local authority finances and budgets, including

- acting in a challenge to a decision by central government to reduce in year grant allocations for a particular service;
- defending a judicial review challenge to funding decisions made within a budget; and
- advising a number of local authorities on legal compliance when restructuring services and reducing spending and service delivery.

Elections

Jonathan advises and represents in local government election disputes and litigation. He has recently advised on an allegation of misleading statements in electoral material, the practical application of the Purdah convention, and advising a Monitoring Officer as to the appropriate approach where the propriety of the notice of a meeting was contested, and that meeting changed the balance of the Council.

R (Gardner & Anor) v Secretary of State for Health & Social Care, NHS England and Public Health England (now UK Health Security Agency)

[2022] EWHC 967 (ADMIN), [2022] 4 ALL ER 896
[2022] PTSR 1338, DIVISIONAL COURT

Challenge to the Government's initial response to the covid crisis, in which it instituted a policy of urgent discharges from hospitals into care homes, to free hospital bed space for the then anticipated wave of hospital admissions. Jonathan appeared for the Secretary of State for Health & Social Care and also for Public Health England.

R (Miller) v College of Policing

[2022] 1 WLR 4987, [2022] HRLR 6, COURT OF APPEAL

Challenge to police guidance on the recording of non-criminal hate incidents, turning on issues of free speech and Article 10.

R (HPSPC Ltd and National Education Union) v Secretary of State for Education

[2022] EWHC 3159 (ADMIN)

Challenge brought by the National Education Union to the Secretary of State for Education's decision on the future of Holland Park School; a well-known school in West London. Jonathan appeared for the Secretary of State for Education.

R (Shashikanth) v NHS Litigation Authority and NHS England

[2022] EWHC 2526 (ADMIN), [2023] ACD 2.

Whether GPs are obliged under NHS contracting arrangements to disclose patient data to local GP networks, under the new regime for primary care (Primary Care Networks); also whether a challenge to a decision on NHS termination of a GP's contract can be subject to judicial review. Jonathan appeared for NHS England.

R (Hertfordshire County Council) v Secretary of State for Housing, Communities and Local Government (No. 1)

[2021] 1 WLR 3714, [2021] EWHC 1093 (ADMIN)

Whether it was lawful for local authorities to hold full council meetings remotely. Jonathan appeared for the Local Government Association.

Devon Partnership NHS Trust v Secretary of State for Health and Social Care

[2021] 1 WLR 2945, (2021) 24 CCL REP 41, [2021] MHLR 248, DIVISIONAL COURT

Where doctors are minded to "section" (i.e. compulsorily detain) patients under the Mental Health Act, whether they can they do so by assessing the patient by means of video (e.g. Zoom or Skype etc), or whether they have to be physically in the same room as the patient during such assessments.

Achievements

News, Articles & Publications

Auburn, Moffett and Sharland, *'Judicial Review: Principles and Procedure'* (OUP, 1st ed 2013, 2nd ed forthcoming 2023)

Civil Procedure ("the White Book"), editor (ongoing)

Phipson on Evidence, contributor (ongoing)

Education and the Courts, contributor, 3rd edition (2012, Jordans)

Atkins Court Forms, Disclosure volume (co-author, ongoing)

Legal Professional Privilege, Law and Theory (1999, Hart)

Recommendations

"Jonathan's advice and pleadings are impressive." **Chambers and Partners**

"He is very clever." **Chambers and Partners**

"Jonathan is a considered advocate who is very personable and a pleasure to work with." **Chambers and Partners**

"Jonathan is a genuine education specialist." **Chambers and Partners**

"He has a fantastic understanding of education law and is really great at dealing with clients." **Chambers and Partners**

"He is tactically very astute, with great instincts." **Chambers and Partners**

"Jonathan has a very conciliatory approach." **Chambers and Partners**

"He gives great practical advice." **Chambers and Partners**

"He works incredibly hard...and he is easy to work with." **Chambers and Partners**

"He has a straightforward, no-nonsense approach and is excellent with clients – he guides them through the process and makes witnesses feel at ease." **Chambers and Partners**

"With his immense knowledge and advocacy skills he can demolish the arguments put forward by the other side." **Chambers and Partners**

"He is extremely hard-working, has very good judgement and is very client-friendly." **Chambers and Partners**

"Very pragmatic and extremely knowledgeable." **Chambers and Partners**

"He is fantastic and offers incisive approaches to the legal analysis of cases." **Chambers and Partners**

"Jonathan is excellent and very experienced in acting for local authorities." **Chambers and Partners**

"Jonathan is extremely knowledgeable and very pragmatic, and is effective at managing expectations as to the prospect of success." **Chambers and Partners**

"Very determined with good judgement, and easy to work with" **Legal 500**

"He works well in a team and is very commercial" **Legal 500**

"His paperwork is excellent and he has a good manner in negotiations" **Chambers and Partners**

"His knowledge of the Care Act is really incredible – he is a specialist in this area" **Chambers and Partners**

"His written advocacy is clear and persuasive" **Chambers and Partners**

"He kept things really clear and concise in a very complex case" **Chambers and Partners**

"He provides clear risk assessments to clients along with a commonsensical, pragmatic view of the legal position" **Chambers and Partners**

"He is very thoughtful and his drafting is always clear. He's happy to debate the issues and is a strong team player" **Chambers and Partners**

"He does a lot around community care and always presents his arguments attractively" **Chambers and Partners**

"Very good at setting out what the law is in complicated cases" **Chambers and Partners**

"He provides a very clear risk assessment to the client, along with a pragmatic view of the legal position" **Chambers and Partners**

"Incredible attention to detail and can pick up on key nuances in the law and explain in a straightforward and simplistic manner" **Legal 500**

"Works well in a team and is very commercial" **Legal 500**

"He's extremely personable and very good with clients." **Chambers and Partners**

"The depth of knowledge and understanding in his various specialist areas of law is impressive. Jonathan fights tenaciously and fairly, and supports clients with practical and robust advice." **Chambers and Partners**

"His depth of knowledge and understanding of the law is very impressive, and he fights tenaciously and fairly. He is very supportive with clients and provides practical and robust advice." **Chambers and Partners**

"Very nice, very collaborative and really knows his stuff. He's very personable" **Chambers and Partners**

"He is very clear and strong on the law." **Chambers and Partners**

"He is bright, personable and very client-friendly." **Chambers and Partners**

"He is very experienced, very balanced and a good person to deal with in complex and upsetting cases." **Chambers and Partners**

"He has very good judgement." **Chambers and Partners**

"Very helpful, knowledgeable and accessible" **Legal 500**

"impresses" **Legal 500**

"punchy and precise" **Legal 500**

"an excellent brain" **Legal 500**

"Extremely knowledgeable and approachable, and a barrister with good client care skills and a thorough grasp of the law. He inspires confidence", "Very efficient, he's extremely quick with the papers and machine-like in turning things around quickly", "He has very good knowledge of community care and is a force to be reckoned with", "He covers all the bases, and if he raises a point, you need to look into it", also "He has a fantastic knowledge of public law", "Offers pragmatic, client-friendly advice", "Very approachable and flexible in the way that he works and has a very good understanding of clients' needs" **Chambers and Partners**

"a real star junior … excellent" **Chambers and Partners**

"He gives very good, practical advice that's easy to understand", "Clients like his practical attitude, his approachability and his flexibility", "Good on his feet, he knows the field inside out, and has the extra advantage of experience acting for both claimants and local authorities", "a model junior", "very competent and on top of the material" **Chambers and Partners**

"a very efficient and very erudite, no-nonsense barrister. He's very good with clients and has a real depth of knowledge", "He is excellent on his feet … He is always available when the client wants to speak to him", "He will push his points robustly, and will get results for his client", "an excellent advocate and a good man to have in your corner", "Very good at getting on top of complex cases, his key strength lies in his brilliant and assured cross-examination technique, which has achieved fantastic results" **Chambers and Partners**

"very good, handles a lot of major work", "very analytical brain", "Top pick" "completely committed to the cause and bursting with energy", robust", "a powerful advocate who demonstrates a phenomenally detailed understanding of the law", "whatever he undertakes, he does a very fine job" "enjoys an excellent profile in the market. His understanding of the issues facing local authorities is first-rate and he perpetually offers sensible, user-friendly advice" **Chambers and Partners**

Education

LLB, University of Western Australia

BCL, Magdalen College, Oxford

D.Phil, Magdalen College, Oxford

Other

Keen follower of the Western Australian cricket team & Arsenal FC.

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