

Stephen Kosmin

Call: 2011

E: Stephen.Kosmin@11kbw.com

T: +44 (0)20 7632 8500



Stephen Kosmin specialises in administrative and public law, procurement law, financial services, and information and data protection law. He is ranked by both Chambers and Partners and the Legal 500 in each of those areas of practice. Stephen is additionally ranked by the Legal 500 in local government law and by Chambers and Partners in civil liberties and human rights. In August 2023, Stephen was appointed to the Attorney General's A Panel.

Stephen has wide-ranging trial and appellate court experience, particularly in high-value and multi-party disputes. Recently, Stephen has appeared:

- in the Supreme Court in *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 3)*, acting for the appellant; in *Cox v Ministry of Justice*, acting for the respondent; and in *Independent Workers Union of Great Britain v Central Arbitration Committee and Rooffoods Ltd (t/a Deliveroo)*, acting for the intervener;



Stephen is extremely bright. He is always well prepared and his advice is robust.

LEGAL 500

- in the Court of Appeal in *Secretary of State for Work and Pensions v AT (European Union law, Universal Credit)*, acting for the Secretary of State; in *Cobalt Data Centre 2 LLP v HMRC*, acting for HMRC; in *R (Bridges) v Chief Constable of South Wales*, acting for the Surveillance Camera Commissioner; in *Kimathi v Foreign and Commonwealth Office*, acting for the Foreign and Commonwealth Office; and in *R (Tesfay) v Secretary of State for the Home Department*, acting for the Home Secretary;
- in the Administrative Court in public law cases, including *R (Charles Street Securities Europe LLP) v Financial Ombudsman Service*; *R (Get Real Marketing Company Ltd) v Culture Recovery Board*; *R (Police Superintendents' Association) v HM Treasury*; and *R (Enterprise Managed Service Ltd) v Secretary of State for Housing, Communities and Local Government*;
- in the Technology and Construction Court in procurement claims, including *James Waste Management LLP v Essex County Council*; *Alstom Transport UK Ltd v Network Rail Infrastructure Ltd*; *R (Good Law Project) v Prime Minister*; *Altiatech Ltd v Birmingham City Council*; and *Kenson Contractors (Benington) Ltd v Haringey Ltd*;
- in the King's Bench Division in *Prismall v Google UK Ltd*; *Seadrill Ghana Operations v Tullow Ghana Ltd*; and *Berkeley Burke Sipp Administration v Financial Ombudsman Service*;
- in the Upper Tribunal and First-tier Tribunal in tax disputes and information law cases, including *Ticketmaster UK Ltd v Information Commissioner*; *Ofqual v Information Commissioner*; *Maurizi v Information Commissioner*; and *Myhill v General Medical Council*.

Stephen also has considerable experience and expertise of public international law, arbitral proceedings, and negotiations.

Expertise

Administrative & Public

Stephen has a broad practice in public law. He advises, and appears on behalf of, both claimants and public authorities of different kinds. In August 2023, he was appointed to the Attorney General's A Panel.

Stephen is highly regarded in public law. He has been ranked by Chambers and Partners and the Legal 500 in Administrative and Public law for a number of years. He is also ranked both by Chambers and Partners in Civil Liberties and Human Rights and by Legal 500 in Local Government Law. In 2022, he was shortlisted as Government and Third Sector Junior of the Year by the Legal 500.

Stephen appears regularly in judicial review proceedings in the Supreme Court, Court of Appeal, and High Court. Additionally, he is often instructed in the Upper Tribunal. Stephen has a developed knowledge of costs in public law proceedings.

Stephen acts both for claimants and defendants in public law proceedings, as well as undertaking advisory work. Stephen has recently advised the following clients:

- Government departments.
- Local authorities.
- NHS trusts.
- Network Rail.
- Financial regulators and financial dispute resolution schemes, including the Bank of England, Serious Fraud Office, Financial Services Compensation Scheme, and Financial Ombudsman Service.
- Professional regulators, including the Health and Care Professions Council, the General Medical Council, and the Information Commissioner.
- Educational institutions.
- Private clients and representative organisations.

Stephen taught Administrative Law and Constitutional EU Law at university and has since advised frequently on EU law, the legal consequences of Brexit, and associated matters.



Stephen drills right into the detail. He is very creative, has amazing research skills and pushes the boundaries of things.

CHAMBERS & PARTNERS

R (Cobalt Data Centre 2 LLP) v Revenue and Customs Commissioners

[2024] UKSC 40, SC, NOVEMBER 20 2024, [2024] 1 WLR 5213

Buildings built within enterprise zone between 10 and 20 years after site included in zone – Whether entitlement to enterprise zone allowance.

R (Police Superintendents' Association) v Police Remuneration Review Body and Home Secretary

[2023] EWHC 1838 (ADMIN)

In which Fordham J set out ten principles governing the duty of candour in public law litigation.

R (Charles Street Securities Europe LLP) v Financial Ombudsman Service

[2023] EWHC 448 (ADMIN)

In which Heather Williams J considered the extent to which reasons had to be provided by an ombudsman when departing from the common law.

R (Charles Street Securities Europe LLP) v Financial Ombudsman Service

[2022] EWHC 2401 (KB)

Which concerned a challenge to the jurisdiction of the Ombudsman to consider a complaint concerning high risk investments.

R (Farmiloe) v Gas and Electricity Markets Authority

[2024] EWHC 2584 (ADMIN) ADMIN CT, OCTOBER 11 2024 [2024] ACD 131

Ofgem not under an absolute duty to grant accreditation under the Domestic Renewable Heat Incentive Scheme simply because the application had been properly made and the plant met the eligibility criteria

Secretary of State for Work and Pensions v AT (European Union law, Universal Credit)

[2022] UKUT 330 (AAC)

Which concerned the status of the Charter of Fundamental Rights following Brexit.

R (Charles Street Securities Europe LLP) v Financial Ombudsman Service

[2022] EWHC 2401 (KB)

In which Murray J considered a jurisdictional challenge to an ombudsman's classification of a client of the claimant as a consumer, rather than as an elective professional client.

R (Get Real Marketing Company Ltd) v Culture Recovery Board

[2022] EWHC 1137 (ADMIN)

Which concerned a challenge to the refusal of loan finance by the Culture Recovery Board to the company that had created and curated the Wilderness and Lovebox festivals.

R (Portal Financial Services LLP) v Financial Ombudsman Service

[2022] EWHC 710 (ADMIN)

Which concerned the extent to which an Ombudsman was obliged to apply common law principles.

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.

R (Police Superintendents' Association) v HM Treasury

[2021] EWHC 3389 (ADMIN)

Which concerned the decision to close legacy public service pension schemes, including the police schemes, following consultation.

R (Enterprise Managed Service Ltd) v Secretary of State for Housing, Communities and Local Government

[2021] EWHC 1436 (ADMIN)

Which concerned the lawfulness of provisions of the Local Government Pension Scheme (Amendment) Regulations 2020 with retrospective effect.

R (Portal Financial Services LLP) v Financial Ombudsman Service

[2022] EWHC 710 (ADMIN)

In which Sweeting J considered a challenge to 27 decisions of an ombudsman regarding the scope of the due diligence obligations arising under the FCA's Principles.

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.

R (Police Superintendents' Association) v HM Treasury

[2021] EWHC 3389 (ADMIN)

Andrew acted for the Police Superintendents' Association in a successful challenge to HM Treasury's decision on police pension reform on public sector equality duty and consultation grounds.

R (Enterprise Managed Service Ltd) v Secretary of State for Housing, Communities and Local Government

[2021] EWHC 1436 (ADMIN)

Which concerned the lawfulness of provisions of the Local Government Pension Scheme (Amendment) Regulations 2020 with retrospective effect.

R (Bridges) v Chief Constable of South Wales

[2020] EWCA CIV 1058

Which concerned the legality of the deployment of Automatic Facial Recognition technology by South Wales Police. It was the first appellate decision globally to do so.

R (oao Cobalt Data Centre 2 LLP) v Revenue and Customs Commissioners

[2020] STC 23

In which Zacaroli J considered whether two partnerships, which acquired merely rights under a Golden Contract to construct two data centres in an enterprise zone, had a legitimate expectation of receiving the benefit of enterprise zone allowances.

Kenson Contractors (Benington) Ltd v Haringey LBC

[2019] EWHC 1230 (ADMIN)

In which Waksman J refused injunctive relief preventing the award of a road improvement contract around Tottenham Hotspur FC's new stadium.

Kamoka v The Security Service

[2019] EWHC 290 (QB)

Which concerned the legality of deportation and detention orders of members or associates of the Libyan Islamic Fighting Group.

D v Lord Chancellor

[2020] EWHC 736 (ADMIN)

Which concerned the costs consequences of the participation of a tribunal in discontinued judicial review proceedings.

R (Farmiloe) v Secretary of State for Business, Energy and Industrial Strategy

[2019] EWHC 2981 (ADMIN)

In which Lang J held that Ofgem had the power to require a homeowner to provide a second energy performance certificate when applying for accreditation under the Domestic Renewable Heat Incentive Scheme.

Kenson Contractors (Benington) Ltd v Haringey LBC

In which Waksman J refused injunctive relief preventing the award of a road improvement contract around Tottenham Hotspur FC's new stadium.

Kamoka v The Security Service

In which Jay J considered the legality of deportation and detention orders of members or associates of the Libyan Islamic Fighting Group. Various public international law issues concerning 'extraordinary rendition' were in dispute.

**R (oao Berkeley Burke SIPP Administration Ltd
v Financial Ombudsman Service Ltd**

[2019] BUS LR 437

In which Jacobs J determined the lawfulness of an ombudsman's decision concerning the inadequacy of due diligence undertaken by a SIPP operator engaged on execution-only terms.

**Kimathi and others v Foreign and
Commonwealth Office**

[2018] EWCA CIV 2213

In which the FCO successfully defended an application for permission to appeal a final judgment in the first of 25 test cases arising from the acts of the British colonial administration in Kenya during a State of Emergency declared in 1952 to deal with the Mau Mau uprising.

**Kimathi and others v Foreign and
Commonwealth Office**

In which the Foreign and Commonwealth Office successfully defended an application for permission to appeal a final judgment in the first of 25 test cases arising from the acts of the British colonial administration in Kenya during a State of Emergency declared in 1952 to deal with the Mau Mau uprising.

**R (oao Berkeley Burke SIPP Administration Ltd
v Financial Ombudsman Service Ltd**

[2019] BUS LR 437

In which Jacobs J determined the lawfulness of an ombudsman's decision concerning the inadequacy of due diligence undertaken by a SIPP operator engaged on execution-only terms.

**Kimathi and others v Foreign and
Commonwealth Office**

[2018] EWHC 3144 (QB), [2018] EWHC 2066 (QB), [2018] EWHC 853 (QB), [2018] EWHC 605 (QB), [2017] EWHC 2703 (QB), [2017] EWHC 2145 (QB), [2017] EWHC 938 (QB), [2017] EWHC 203 (QB)

In which he successfully defended approximately 40,000 claims for damages arising from the alleged actions of the British colonial administration in Kenya during the State of Emergency.

**Kimathi and others v Foreign and
Commonwealth Office**

in which Stewart J dismissed claims for damages arising from the alleged actions of the British colonial administration in Kenya during a State of Emergency declared in 1952 to deal with the Mau Mau uprising. The public international law issues concerned interpretation (regarding the United Nations Convention Against Torture 1984), pleading and proving customary international law, and the extent to which public international law confers rights or causes of action in domestic law, including by reason of the European Convention on Human Rights.

R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 3)

[2018] UKSC 3, [2018] 1 WLR 973

In which the Supreme Court considered the admissibility of Wikileaks cables, the operation of the Vienna Convention on Diplomatic Relations, and the standard of the 'makes no difference' test in judicial review proceedings.

R (on the application of Full Circle Asset Management) v Financial Ombudsman Service

[2017] EWHC 323

In which Nicol J considered a judicial review application by a firm of financial advisers who had been the subject of a section 166 skilled person review. The case explored the key regulatory relationship between the FCA and the Financial Ombudsman Service.

R (Tesfay) v SSHD

[2016] 1 WLR 4853

In which the Court of Appeal considered the allocation of costs upon the compromise of public law proceedings, explaining R (M) V Croydon London Borough Council [2012] 1 WLR 2607.

Health and Care Professions Council v Waring

[2016] EWHC 696 (ADMIN)

Concerning an interim suspension order of a registered social worker.

R (on the application of Full Circle Asset Management) v Financial Ombudsman Service

[2017] EWHC 323

In which Nicol J considered a judicial review application by a firm of financial advisers who had been the subject of a section 166 skilled person review. The case explored the key regulatory relationship between the FCA and the Financial Ombudsman.

Cox v Ministry of Justice

[2016] AC 660

In which the Supreme Court restated the first stage of the vicarious liability test in the context of prisoners undertaking work in prison.

R (Lovett) v Health and Care Professions Council

[2016] EWHC 2193 (ADMIN)

Before Cheema-Grubb J, concerning whether the decision to continue a disciplinary hearing after a lengthy delay breached Article 6 ECHR and the requirement to conduct proceedings in a reasonable time under the relevant statutory scheme.

R (Chancery (UK) LLP) v Financial Ombudsman Service

[2015] EWHC 407 (ADMIN) BEFORE OUSELEY J

Concerning whether a complaint concerning a tax avoidance scheme fell within the jurisdiction of the Financial Ombudsman.

R (on the application of Hanuman) v University of East Anglia

[2014] EWHC 3299 (ADMIN)

In which Stephen successfully obtained civil restraint orders, so bringing a dispute lasting around twenty years to a satisfactory The case is cited in the White Book.

Achievements

Education

2010/2011: Bar Professional Training Course, City University.

2011: Admitted as an Attorney to the New York Bar.

2009/2010: LL.M., University of Pennsylvania Law School, Distinction.

2008/2009: BCL, University of Oxford, Lincoln College.

2005/2008: BA Law Tripos, University of Cambridge, Gonville and Caius College.

Scholarships and Prizes

2010, Queen Mother's Scholarship, Middle Temple.

2009, Thouron Award to study at University of Pennsylvania.

2009, Ralph Chiles CBE Prize for the Best Performance in Human Rights Law in Oxford University.

2008, W M Tapp Scholarship for Postgraduate Studies, Gonville and Caius College.

2008, James William Squire Scholar, University of Cambridge Law Faculty.

2008, Frere-Smith Prize for Law, Gonville and Caius College.

2007, Senior Scholar, Gonville and Caius College.

2006, Sir William McNair Law Prize, Gonville and Caius College

Publications

- *"An introduction to the Business Banking Resolution Scheme"* (2021) 6 Journal of International Banking and Finance Law 411.

- *"Different approaches to SIPP operators' liability"* (2020) 8 Journal of International Banking and Finance Law 527.
- *"Wikileaks and International Law: Inviolability v Inadmissibility"*, co-authored with Professor Robert McCorquodale [2017-18] 9 UK Supreme Court Yearbook 92.
- *"Supreme Court rules Wikileaks cable document should have been admitted into evidence"*, in Lexis Nexis Butterworths News, February 2018.
- *"Ensuring anti-money laundering compliance through the senior managers regime of the Financial Services (Banking Reform) Bill: Hansard brings comfort"* (2014) 3 Journal of International Banking and Finance Law 179.
- Chapter 8 on *'Mistake, Misrepresentation and Frustration'*, in Wilmot-Smith on *'Construction Contracts'* (Third Edition, 2014).
- *"The Enforcement of Arbitral Awards in UAE "*, (2013) Lexis PSL Arbitration.
- Assistant to Justice Dr Yoram Danziger, Justice of the Israeli Supreme Court, *"Changes in Methods of Freezing Funds of Terrorist Organisations since 9/11: A Comparative Analysis"*, (2012) 15(2) Journal of Money Laundering Control 210.
- Interviewed as an International Law expert by BBC Newshour, 2015.

Additional Information

- Appointed to the League Managers Association Commercial Law Panel.
- Marshall in the Technology and Construction Court, March 2013.
- Foreign Clerk with the Supreme Court of Israel, July to August 2011.
- Admitted as an Attorney to the New York Bar, 2011, currently non-practicing.
- Lecturer in Administrative Law at London Metropolitan University, 2011.
- Lecturer in Constitutional Law of the European Union at London Metropolitan University, 2010.
- German, advanced.



His advocacy style is very clear, succinct and authoritative. He's confident on his feet, gives well-structured arguments and is authoritative.

CHAMBERS AND PARTNERS



Stephen is a strikingly clever and very versatile lawyer who brings to bear a great deal of wisdom in his analysis.

CHAMBERS AND PARTNERS



His attention to detail is phenomenal and he has an uncanny ability to find discrete points to nail the case. Stephen thinks commercially and engages well with clients.

CHAMBERS AND PARTNERS



Very responsive and an excellent advocate.

CHAMBERS AND PARTNERS



An excellent barrister who is very methodical in his approach.

CHAMBERS AND PARTNERS



Stephen Kosmin is very good at presenting complex issues in a clear way and is always a pleasure to work with.

CHAMBERS AND PARTNERS



Grapples with issues quickly and puts in the legwork to get the best outcome for the client.

CHAMBERS AND PARTNERS



He's extremely clear in his thinking and communication. Very bright and organised.

CHAMBERS AND PARTNERS



Stephen is diligent, ultra responsive and totally reliable.

CHAMBERS AND PARTNERS