Jonathan Auburn KC

Silk: 2021 Call: 1999

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



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.

> ***Jonathan is a genuine education specialist.***
>
> CHAMBERS AND PARTNERS

Expertise

Education

Listed by both Chambers & Partners and The Legal 500 as a leading KC in the field, Jonathan represents and advises both claimants and defendants (local authorities, Academies and independent schools) in the full range of education matters.

His recent work also includes:

- a challenge to an exclusion decision concerning a child whom it was alleged had committed a serious sexual offence, case concerned reliance on anonymised evidence and the effect of flaws in the initial investigation,
- a challenge to a school's admissions policy granting preference to siblings previously refused admission,
- acting for a school in a challenge to an Ofsted finding of inadequacy,
- a dispute before the Schools Adjudicator concerning ownership of school playing field land following Academy conversion,

> ***An excellent advocate, who knows a lot about education law***
>
> LEGAL 500

Independent Schools Litigation:
Jonathan also regularly advises and represents in cases involving the independent sector. He has appeared in most of the leading cases involving independent schools, including Gray v Marlborough College (the leading case on disciplinary exclusions) and T v Hall Schools (the widely reported "pushy parents" case, concerning the ability of an independent school to terminate placements due to parental behaviour). Most recently he has acted in a number of claims arising from allegations of per on peer sexual abuse.

Jonathan is a contributor to the Education Law Handbook (LexisNexis, 2021)

Higher Education:
Jonathan is highly rated in both Chambers & Partners and The Legal 500 as a leading KC in the field of Education Law.

He has wide experience of representing universities and colleges and is currently acting in the following -:

- a challenge by a Palestinian rights group alleging breach of Article 10 free speech rights in cancelling a pro-Palestinian art exhibition on the basis that some content was said to be anti-Semitic;

- a challenge to a decision made by the Office for Students rejecting a complaint brought by a student;
- a contract and negligence claim by a student who was unable to complete his course, and later alleged substandard teaching and course organisation,
- a claim by a student for failure to protect him from racial harassment by other pupils,
- a judicial review claim against a university alleging erroneous marking of an exam, and loss of exam scripts.

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

[2022] EWHC 3159 (ADMIN)

Challenge brought by the National Education Union against the Secretary of State for Education over the future of Holland Park School; a well-known school in West London.

R (CHF) v Newick CE Primary School

[2022] PTSR 756, [2022] ELR 24

Case establishing that schools could keep a child away from the school site indefinitely other than by the statutory exclusions process, as a "safeguarding separation", to safeguard the welfare of another pupil at the school.

CAGE UK v Secretary of State for Education

[2022] EWHC 2373 (ADMIN)

Political impartiality, statutory ban on indoctrination in schools. Jonathan successfully acted for the Secretary of State in resisting this challenge to the Secretary of State's policy of requiring schools to not work with any body which denies Israel's right to exist.

R (Khalsa Academies Trust) v Secretary of State for Education

[2022] ELR 55 , [2021] EWHC 2660 (ADMIN), ADMIN CT, OCTOBER 5 2021

Challenge by one of the only Sihk-faith academy trusts in the country, to the revocation of their management of a particular Sihk-faith academy (school) on serious safeguarding grounds. The claim alleged serious public law error, and discrimination against the academy proprietors on religious grounds.

R (QXH) v UK Research & Innovation, Administrative Court, 2021

Test case challenge to the system of funding research in UK Universities. The UK invests £2billion on scientific research annually. However, of the medical research, only 4% goes to the research pf mental health illnesses, as compared with physical health illnesses. This was a discrimination claim brought by a mental illness charity.

R (AD) v London Borough of Hackney

[2020] EWCA CIV 518, CA, APRIL 8 2020, [2020] ELR 374; (2020) 23 CCLR 253

A local authority's decision to reduce funding for special educational needs provision did not engage the substantive or consultation duties in the Children and Families Act 2014. Jonathan acted successfully for the Defendant

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.

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

whatever he undertakes, he does a very fine job

CHAMBERS AND PARTNERS

a powerful advocate who demonstrates a phenomenally detailed understanding of the law

CHAMBERS AND PARTNERS

robust

CHAMBERS AND PARTNERS

completely committed to the cause and bursting with energy

CHAMBERS AND PARTNERS

Top pick

CHAMBERS AND PARTNERS

very analytical brain

CHAMBERS AND PARTNERS

He gives very good, practical advice that's easy to understand

CHAMBERS AND PARTNERS

Good on his feet, he knows the field inside out, and has the extra advantage of experience acting for both claimants and local authorities

CHAMBERS AND PARTNERS