Jane Oldham



Call: 1985

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

Jane Oldham specialises in public, local government, information and education law. She has appeared at all appellate levels. The directories have for many years ranked Jane consistently as a leading junior in public and administrative, local government and education law, saying that "she has a fine track record of handling sophisticated public, information and education law matters". Jane is Chambers UK 2026's top-ranked local government junior at the London Bar.

> ***Jane Oldham advises on a range of cases including judicial review challenges, local authority disputes, and matters relating to academies. Clients include a host of schools, as well as higher and further education institutions***
>
> LEGAL 500, 2023

Expertise

Public

Jane practises principally in public and administrative law and has wide experience of judicial review litigation.

She has practised also in commercial law and has particular experience in cases at the intersection of these areas, such as the Interest Rate Swap litigation between banks and local authorities, information law disputes concerning commercial matters, public procurement, European Regional Development Fund disputes, restitution claims arising from ultra vires activity, and litigation about wrongful trading through companies in which local authorities have interests.

She acts for national, local and private bodies. Subject matter includes utilities, civil aviation, higher and further education (including funding), national parks, broadcasting, health service (health authorities' proposed financial arrangements, hospital closures, pharmacies, dentists' and GPs' contracts with health bodies), museums galleries and film bodies, bodies regulating professions including the legal profession, police bodies.

Recent work includes:

- Tribunal dispute about disclosure of information on VIP Fast Lane procurement of PPE during Covid
- Advising on legality of proposed pilot scheme for third party use of housing benefit personal data to identify families who may be vulnerable to defaulting on rent and experiencing vulnerabilities and isolation.
- Successfully challenging a decision concerning health care of people in police custody.
- Advising on public law aspects of a transport app.
- Advising a national public body on participation in a nine-figure bond.
- Acting in a JR challenge to the use of isolation booths in a school.
- Resisting a JR challenge to an urban healthy streets project.
- Advising on vires, procurement and state aid aspects of a proposed transaction between a public body and a private investor to finance installation of electric car charging points.

> ***A fine track record of handling sophisticated public, information and education law matters***
>
> **CHAMBERS & PARTNERS**

Other public law litigation includes acting in a 2018 JR challenge to a school's haircut policy (prohibition of dreadlocks), representing solicitor claimants in four of the many procurement challenges in 2016 to the Lord Chancellor's procurement of two-tier criminal legal aid contracting (the challenge resulted in the government withdrawing the entire procurement); a 2015 Supreme Court decision about declaratory relief and costs in judicial review where an error of law has been found but no relief given by the lower court; a 2015 decision about delegation of power and the scope of *DPP v Haw* and the *Carltona* principle; and judicial reviews of some of the earliest Council Tax Support Schemes and of the 2012 English GCSE Awards.

Commercial Litigation

Commercial judicial review: see Jane's public, local government, information and public procurement law pages.

Jane has particular experience in cases at the intersection of public and commercial law, such as the Interest Rate Swap litigation between banks and local authorities, European Regional Development Fund disputes, information law disputes concerning commercial matters, restitution claims arising from ultra vires activity, public procurement, and litigation about wrongful trading through companies in which local authorities have interests.

Media & Privacy

Jane has been instructed extensively for and against public authorities and for the Information Commissioner on GDPR, DPA, Freedom of Information Act and EIR issues. She has acted in both Information Tribunal (over 30 cases, see selection below) and High Court matters. She has a strong record on behalf of her clients of responding to ICO investigations effectively.

Recent work includes:

- GDPR issues.
- Controversial subject access requests.
- Protection of commercial interests in the FOIA and EIR fields. Scope of duties in respect of a data breach (student personal data).
- DPA duties in the context of disciplinary action by professional regulatory bodies. Disputes about release of reports in the regulatory sphere.

She has been on the Information Commissioner's List of Counsel and has contributed to the Information Law Reports.

Jane has also advised and appeared in collateral interventions in proceedings in which disclosure issues have been raised. For example the challenge to the lawfulness of the government's policy concerning the detention of children of unsuccessful asylum-seekers pending their deportation, in which she intervened successfully for a Local Children's Safeguarding Board concerning the disclosure of a Serious Case Review about detained children (*Suppiah v Sec State for Home Dept and Others* [2011] EWHC 2 (Admin)).

Education

Jane acts in matters concerning all levels of educational bodies. Recent education work includes:

- JR challenge to closure of nurseries
- Information dispute about a school's extra-curricular diversity and inclusion club.
- JR challenge to use of isolation booths in a school.
- Complex reference before the Office for Students concerning a university's research funding.
- Acting for university resisting claw-back of European Regional Development Funding for research project with commercial sector.
- Advising university on scope of duties in respect of a data breach (student personal data). Advising on a university's proposal to sub-contract its duties under the Equality Act 2010.
- Advising whether a university can give financial assistance, for the payment of a statutory penalty, to its indebted student union.

Examples of other work include:

- JR challenge to a school's haircut policy prohibiting wearing hair in dreadlocks (2018).
- Acting for the council in a Supreme Court hearing in 2015 in a matter originating from an Education Act 1996 challenge to funding cuts in youth services.
- Advising in disputes about liabilities for school deficits and transfers of property (including special needs facilities used by several schools) on conversion to academy status.

> ***A fine track record of handling sophisticated public, information and education law matters***
>
> CHAMBERS & PARTNERS

- Issues arising from regulatory reports about further and higher education bodies. The judicial review of the 2012 English GCSEs.
- Academies' admissions arrangements and admissions appeals.
- Funding disputes between universities and affiliated bodies.
- A challenge to a decision to fund closure of a college and transfer its courses to a different institution.
- Appropriate remedy for use of incorrect assessment criteria in student examination.
- Freedom of information in the education context.

European Union

ERDF Funding disputes.

Human Rights

Human rights issues arise across Jane's specialisms.

Information, Technology & Media

Jane has been instructed extensively for and against public authorities and for the Information Commissioner on Freedom of Information Act, EIR, GDPR and DPA issues and has acted in both Information Tribunal (over 30 cases, see selection below) and High Court matters. She has a strong record on behalf of her clients of participating in or responding to ICO investigations effectively.

She has been on the Information Commissioner's List of Counsel and has contributed to the Information Law Reports.

Frequently instructed in relation to protection of commercial interests in the FOIA, EIR and GDPR/DPA fields. She also has experience of controversial subject access requests, data sharing, DPA duties in the context of disciplinary action by professional regulatory bodies, and disputes about release of reports in the regulatory sphere.

Recent work includes:

> ***A fine track record of handling sophisticated public, information and education law matters***
>
> **CHAMBERS & PARTNERS**

- *Breckland DC v Information Commissioner* (2023) UKFTT 103 (GRC) on commercial confidentiality exemption and the relationship between EIR rights and the statutory rights of electors and auditors to information (2023).
- FTT appeal on Covid VIP Fast Lane PPE procurement information (2022).
- FOI dispute between school and parents objecting to a diversity and inclusion activity (2022).
- FTT appeal on disclosure of names of recipients (including foster carers) of payments for outsourced childcare (2022).
- FTT appeal on "neither confirm nor deny" FOIA exemption (2022).
- *Pharmacists Defence Union v NHS Business Services Limited* (EA/2019/0239) (FOI) (2022)
- Advising on disclosure of personal data of drivers involved in car accidents.
- ICO investigation into use of personal data to provide automatic opt-in for unwanted commercial discount scheme.
- Advising university on scope of duties in respect of a data breach (student personal data).
- ICO investigation into EIR dispute about disclosure of verbatim responses to a public consultation.
- ICO investigation into EIR dispute about disclosure of a hospital's information about the fire safety of the building materials used in its construction.

Jane has also advised and appeared in collateral interventions in proceedings in which disclosure issues have been raised. For example the challenge to the lawfulness of the government's policy concerning the detention of children of unsuccessful asylum-seekers pending their deportation, in which she intervened successfully for a Local Children's Safeguarding Board concerning the disclosure of a Serious Case Review about detained children
(*Suppiah v Sec State for Home Dept and Others* [2011] EWHC 2 (Admin)).

Local Government

Jane advises and appears regularly in cases at all levels concerning local government.

She is Chambers UK 2023's top-ranked junior at the London Bar.

Recent work includes:

- *Breckland DC v Information Commissioner* (2023) UKFTT 103 (GRC) on commercial confidentiality exemption and the relationship between EIR rights and the statutory rights of electors and auditors to information.
- Closure of nurseries
- Use of interest rate swaps
- Local election law problems
- Disputes arising from closure of leisure centres during lockdown
- BID disputes arising from impact of lockdown on businesses
- Advice and advocacy concerning innovative investment schemes.
- Issues arising from public consultations.
- Public sector equality duty issues.
- Governance issues (including lawfulness of certain council appointments).
- Advice on an authority's regeneration scheme (vires).
- Councillors' rights to see information.
- Councillors' conduct.
- Advising on dispute between fire authority and local authority as to calculation of precept.
- Auditor's investigation of money spent by authority on its regeneration scheme.
- Auditor's investigation concerning whether an authority sold land in breach of its section 123 LGA 1972 consideration duty.
- Whether a local authority had to repay penalties it had imposed ultra vires, and if so to what extent.
- Whether a local authority's proposed scheme engaged procurement rules.
- Whether a local authority's policy on applications for discretionary reductions of council tax was lawful.

Examples of the breadth of Jane's local government practice include:

- Vires.
- Budget setting.
- Council tax (including council tax reduction schemes).
- Governance (including changing from one form to another).
- Monitoring issues.
- Public sector equality duty (particularly in the context of spending cuts).
- Consultation.
- Local authority interaction with commercial and third sector bodies.
- Testing the scope of the Localism Act general power of competence.

> ***A high-profile senior junior who advises in substantial local government matters, including funding challenges and issues relating to council tax benefit arrangements.***
>
> CHAMBERS & PARTNERS

- Issues arising from large capital projects undertaken by public bodies.
- District auditor investigations and public interest reports (one involving proceedings about £120 million of challenged expenditure of public funds) for both local authority and auditing body.
- Restitution claims arising from ultra vires activity.
- Capital finance.
- Public procurement.
- FOIA and Environmental Information Regulations.
- Data protection and GDPR (including sensitive data sharing with other agencies), subject access requests, release of reports on social care matters and serious case reviews.
- Education.
- Disputes with central government about grants.
- Local authority funding disputes with health bodies including resisting NHS claims for restitution of continuing health funding payments.
- Disputes about exemptions and discounts from business rates.
- BID levies.
- Applications to list assets of community value – including listing, for the first time, an entire mountain, Blencathra.
- Disputes with transport bodies eg TfL.
- Private landlord licensing schemes.
- Social impact bonds.
- Successfully resisting DCLG attempts to claw back ERDF funding.
- Service-sharing agreements with other councils.
- Provision of services to non-council entities.
- Representing local authorities in mediations.

Jane has particular experience in cases at the intersection of local government/public and commercial issues, such as the Interest Rate Swap litigation between banks and local authorities, public procurement, European Regional Development Fund disputes, information law disputes concerning commercial matters, restitution claims arising from ultra vires activity, and litigation about wrongful trading through companies in which local authorities have interests.

Alternative Dispute Resolution

Jane has represented local authorities in mediations.

Public Procurement

Jane has advised both public authorities and tenderers on a wide range of procurement problems at all stages of tender processes. She has a strong record of enabling them, respectively, to deter proposed challenges, and to persuade public authorities to recommence tendering procedures.

Examples include:

- Successful challenge to contract decision concerning health care of people in custody.
- Acting for a university challenging claw-back of ERDF funds on grounds of alleged breach of procurement rules.
- Advising on procurement aspects of a proposed transaction between a public body and a private investor to finance installation of electric car charging points.
- Advising local authorities whether proposals engage public procurement rules.

Other cases include: acting in 2015-2016 for the solicitor claimants in four of the High Court procurement challenges seeking to set aside the government's procurement of two-tier criminal legal aid contracting (the procurement, said to be among the largest and most complex tender processes undertaken by central government, was then abandoned by the Lord Chancellor in January 2016); acting for a trade union in its judicial review challenge to NHS PCTs' proposed outsourcing of their family health services.

Has acted successfully for grant recipients resisting government attempts, on procurement grounds, to claw back European Regional Development Fund funding.

Recent cases

v

Breckland DC v Information Commissioner (2023) UKFTT 103 (GRC)

Corderoy v Information Commissioner and National Audit Office

(2023) UKFTT 103 (GRC)

on commercial confidentiality exemption and the relationship between EIR rights and the statutory rights of electors and auditors to information

EA/2021/0366

Nikhil Prabhu vs Information Commissioner and Birmingham Children's Trust

Nicholas Robert v Information Commissioner and Devon County Council

EA/2021/0349

Pharmacists Defence Union v NHS Business Services Limited

(EA/2019/0239) (FOI)

R (Imperial London Hotels Limited) v London Borough of Camden

(2019): resisting JR challenge to a healthy streets project.

R (Throssel) v Outwood Grange Academy Trust

(2019): JR challenging use of isolation booths in a school.

R(F) v Fulham Boys' School

(2018): JR challenging haircut policy (prohibition of dreadlocks).

Rutherford v Wimbledon and Putney Commons Conservators

(2017): challenge to levy.

London Borough of Ealing v Information Comm

(EA/2016/0013) (2017) (FOI).

Wainwright & Cummins LLP v Lord Chancellor

(2015): Challenge to government's procurement of two-tier criminal legal aid contracting.

R (Hunt) v North Somerset Council

[2015] UKSC 51, [2015] 1 WLR 3575 / JUDICIAL REVIEW

[2015] UKSC 51, [2015] 1 WLR 3375 (JUDICIAL REVIEW REMEDIES, COSTS); [2013] EWCA CIV 1320, [2014] BLGR 1 (BUDGET-SETTING, PSED, CONSULTATION, REMEDY), [2013] 16 CCL REP 530 (COSTS) ; [2012] EWHC 1928 (ADMIN) (18 JULY 2012); [2012] EQLR 951 SC:

Refusal of judicial review remedy where breach of statutory duty found, no order made quashing decision and claim for declaration not pursued or formulated. Claimant's costs recoverable, but in reduced proportion. CA and HC: Public sector equality duty and consultation challenge to Council's budget-setting decision to reduce funding for, and review methods of provision of, youth services.

R (Hamill) v Chelmsford Magistrates' Court

[2015] 1 WLR 1798

Delegation of power: whether lawful. Scope of DPP v Haw, Carltona principle considered.

R (Branwell) v Rochdale MBC

[2013] EWHC 1024

Consultation and equalities challenge to local authority's council tax support scheme for 2013- 2014.

R (Lewisham London Borough Council and Others) v AQA and Ofqual [2013] EWHC 211

Judicial review challenge to the 2012 English GCSE awards

R (UNISON) v NHS Wiltshire Primary Care Trust and Others

[2012] EWHC 624 (ADMIN) (15 MARCH 2012) [2012] ACD 84

Trade union's judicial review challenge to ten PCTs' proposed outsourcing of their family health services in alleged breach of procurement requirements, and Wednesbury rationality. Framework agreements, variation of contracts, time limits, standing.

R (Omotosho) v The Governing body of Harris Academy Crystal Palace

[2011] EWHC 3350 (ADMIN) (18 NOVEMBER 2011)

Judicial review of Academy school's admission arrangements and admissions appeals process.

Davis v Information Commissioner and Board of Trustees of the Tate Gallery

EA/2010/0185 (16 SEPTEMBER 2011)

Legal professional privilege exemption in FOIA, representing the public authority

Sikka v Information Commissioner and HM Treasury

Suppiah v Sec State for Home Dept and Others

Treasury

EA/2010 0054 (12 JULY 2011)

Disclosure of report into collapse of BCCI; representing the Information Commissioner;

Others

[2011] EWHC 2 (ADMIN) (2011) 108(4) LSG 18

Unlawful detention of failed asylum seekers and their children pending removal – intervention on behalf of Local Children's Safeguarding Board concerning the disclosure of a Serious Case Review about detained children.

Ministry of Justice v Information Commissioner

EA/2010/0181 (10 MARCH 2011)

Ministry of Justice's appeal against the Information Commissioner's decision, based on the MoJ's evidence then supplied, that a letter from the then Prime Minister to the Secretary of State for Justice relating to the End of Custody Licence Scheme, should be disclosed. Acted for the Information Commissioner.

R (M) v Oxfordshire County Council and SSHD

(JUNE 2010): CO/133379/2009 AND CO/12546/2009

Age assessment of asylum-seeker. This was one of the first judicial reviews of age assessment of asylum seeking children post- the decision of the Supreme Court in R (A) v LB Croydon [2009] UKSC 8.

Youth Justice Board v Information Commissioner and Children's Rights Alliance for England

EA/ 2010/0013

Disclosure of training manual re restraint techniques used on children in custody, representing the Information Commissioner resisting the appeal against his decision that it should be disclosed, resulting in the YJB withdrawing its appeal and disclosing the information.

Dun v Information Commissioner and National Audit Office

EA/2010/0060

Representing the National Audit Office.

East Riding of Yorkshire Council v Information Commissioner

UKIT [2010] EA/2009/ 0069

Disclosure under Environmental Information Regulations of property search information for HIPs, and whether power to charge for disclosure.

Financial Services Authority v Information Commissioner

Commissioner

[2009] EWHC 1548 AND 1784 (ADMIN)

Degree to which context of request for information to be taken into account in considering exemption under Freedom of Information Act 2000; whether certain information about financial services providers is confidential information under the Financial Services and Markets Act 2000 so that disclosure is prohibited under that act and so exempt under section 44 FOIA. Munby J also made observations about the role of both the IC and the public authority in appeals from the Tribunal, for the purposes of costs orders. Costs: [2009] EWHC 1784 (Admin).

Department of Transport v Information Commissioner

(2009) Whether procurement information about train company franchises should be disclosed; appeal to Information Tribunal. After a partial hearing, the appeal was withdrawn. Jane appeared for the Information Commissioner resisting the appeal.

RMGL v Information Commissioner

(2009) Whether information about Royal Mail Group Limited's spending should be disclosed. Appeal to Information Tribunal, Jane appeared for the Information Commissioner resisting the appeal. After a partial hearing, the appeal was withdrawn.

Financial Services Authority v Information Commissioner

Representing the Information Commissioner.

Secretary of State for Health v Crouch and (1) South Birmingham Primary Care Trust (2) British Dental Association

[2009] ICR 461, [2008] EWCA CIV 1365

Acted for the British Dental Association. Construction of the principal contract for orthodontists and whether Primary Care Trusts had a unilateral right of termination.

R (Swords) v Secretary of State for Communities and Local Government

R (Save Dartington College Limited) v South West Regional Development Agency and

Communities and Local Government

[2007] EWCA CIV 795

Housing transfers by local authority to housing association under government's "decent homes" policy; lawfulness of Secretary of State's consent. Appeared for the housing association.

West Regional Development Agency and University College Falmouth

CO/2008/1893

Representing University College Falmouth– closure of Dartington College and transfer of its courses to university; security for costs in judicial review where claimant formed company.

Lawton v Information Commissioner and NHS Direct

[2008] UKIT EA/2007/0081

Representing the Information Commissioner.

Tuckley v Information Commissioner

[2008] UKIT EA/2006/0077

Representing the Information Commissioner.

Financial Services Authority v Information Commissioner and Riverstone Management Agency Ltd

[2008] UKIT EA/2008/0047

Disclosure by Financial Services Authority. Representing the Information Commissioner.

Boddy v (1) Information Commissioner and (2) North Norfolk County Council

[2008] UKIT EA/2007/0074

Legal professional privilege; representing the Information Commissioner.

Brook Area Residents and Shopkeepers Group v Information Commissioner and Birmingham City Council

[2008] UKIT EA/2006/0077

Whether a body is a "publicly owned company" within FOIA (relationship of local authority with a company): representing the Information Commissioner.

North Western and North Wales Sea Fisheries Committee v Information Commissioner

[2008] UKIT EA/2007/0133

Whether information is environmental information; commercially confidential information; representing the Information Commissioner.

Welsh v Information Commissioner

[2008] UKIT EA/2007/0088

Whether a request for information is vexatious (in the medical context); representing the Information Commissioner.

McBride v Information Commissioner and Ministry of Justice (formerly Privy Council)

[2008] UKIT EA/2007/0105

Whether information is "held" for the purposes of FOIA; representing the Information Commissioner.

Craven v Information Commissioner

[2008] UKIT EA/2008/0002

Salmon v Information Commissioner

[2008] UKIT EA/2007/0135

[2008] UKIT EA/2008/0002

Disclosure by Financial Services Authority.

[2008] UKIT EA/2007/0135

Application of FOIA to college within a collegiate university, and whether information held is confidential information; representing the Information Commissioner.

Hargrave v Information Commissioner

[2007] UKIT EA/2007/0041

Law enforcement (detection of crime, administration of justice, in the context of an unsolved murder case)); representing the Information Commissioner.

Achievements

Education

MA (Cantab). (Law, Trinity College, Cambridge.)

Other

Languages, scholarships, memberships:

Jane was called to the Bar in 1985 and was awarded prizes and scholarships by Trinity College, Cambridge, where she read law, and Middle Temple. She is a member of the Administrative Law Bar Association, the Commercial Bar Association, the Procurement Lawyers' Association and (in relation to her local government practice) the Planning and Environmental Law Bar Association. Jane practised part-time between 1992 and 2010, plus various periods of family leave during that time, and returned to full-time practice at the end of 2010.

Jane Oldham also covers a wide canvas but is particularly known for the work she does relating to local authorities and their business relations with the private sector

CHAMBERS & PARTNERS

barrister of choice in commercial matters

CHAMBERS & PARTNERS

immensely sensible, thorough and driven

CHAMBERS & PARTNERS

With bucket loads of experience and calm approach to advocacy that never fails to impress

CHAMBERS & PARTNERS

Interviewees praised Jane Oldham for her "genius and sheer hard work"

CHAMBERS & PARTNERS

Her client care is also highlighted as a particular strength

CHAMBERS & PARTNERS

Jane Oldham is perceived as "a feisty lawyer who goes from strength to strength"

CHAMBERS & PARTNERS

Jane Oldham is "on the ball straight away" and handles complex cases well. She is further considered an advocate who "understands the law, works well with clients, and possesses intellectual weight"

CHAMBERS & PARTNERS

She handles everything from pre-dispute advisory work to judicial review, and has experience of the Supreme Court disputes.

CHAMBERS & PARTNERS