James Cornwell

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James practises mainly in public, education, local government, media and data privacy and information law. His work often involves overlap between these areas.

He has acted for a wide range of clients, including government departments and agencies, local authorities, regulators, universities, major companies and third-sector organisations. He is a member of the Attorney General's A Panel of Counsel.

The main legal directories rank James as a leading junior for, variously, administrative and public law (including local government), data protection law and education law.

> ***He has a first-class intellect***
>
> LEGAL 500

Expertise

Public

James has a wide public law practice and regularly appears in the Administrative Court and Upper Tribunal (Administrative Appeals Chamber) in judicial reviews and statutory appeals, as well as in the Court of Appeal and Supreme Court.

This work has included judicial review in the areas of EU structural funds (including ERDF funds), immigration, asylum support, age assessment, local government funding, local government pensions, human rights, government grants and subsidies, social security, the public sector equality duty, consultation, ombudsman schemes, mental health, judicial review costs, prisons and parole. He has assisted in the drafting of observations for the European Court of Human Rights.

R (DA & DS) v Secretary of State for Work and Pensions

[2019] UKSC 21, [2019] 1 WLR 3289

Social security – human rights – whether revised welfare benefit cap discriminated against lone parents and/or their children contrary to Article 14 ECHR (read with Article 1 of the First Protocol or Article 8).

R (Harpreet Singh) v Secretary of State for the Home Department

[2018] EWCA CIV 2861

Immigration – leave to remain under the Points-Based System – whether the Upper Tribunal was entitled to find that the appellant had not supplied the required documents to the Secretary of State with an application for leave to remain – whether Secretary of State was required to afford an opportunity to correct the omission.

R (Harvey) v London Borough of Haringey & Secretary of State for Housing, Communities and Local Government

[2018] EWHC 2871 (ADMIN)

Local Government Pensions – human rights – whether a local authority had discriminated contrary to Article 14 ECHR (read with Article 1 of the First Protocol) by refusing to grant a pension to the surviving unmarried cohabiting partner of a deceased member of the Local Government Pension Scheme who had not become a member of the 2008 LGPS Scheme.

R (Tawinder Singh) v Secretary of State for the Home Department

[2018] EWCA CIV 1669, [2015] EWHC 3633 (ADMIN)

Immigration – validity of application – whether Secretary of State entitled to treat application for further leave to remain as invalid – whether invalidity decision open to administrative review.

R (IC) v Secretary of State for the Home Department

[2018] EWHC 1164 (ADMIN)

Judicial review – costs – extent to which a partially successful claimant was entitled to his costs of a compromised claim for judicial review – whether the claimant was to be disallowed his costs due to an erroneous statement in his grounds for judicial review.

JP v Secretary of State for Work and Pensions

[2018] UKUT 161 (AAC)

Social security – EU law – right to reside – scope of Article 12.1 of Directive 2004/38/EC – meaning of "to take early retirement" in Article 17.1(a) of the Directive, and scope of Article 17.1(a).

Secretary of State for the Home Department v VC (Sri Lanka)

[2017] EWCA CIV 1967, [2018] IMM AR 517

Immigration – human rights – whether the First-tier Tribunal was entitled to find that a foreign criminal had "a subsisting parental relationship" for the purposes of paragraph 399(a) of the Immigration Rules with his children who were in foster care pending their adoption.

R (JK (Burundi)) v Secretary of State for the Home Department

[2017] EWCA CIV 433, [2017] 1 WLR 4567, (2018) 21 CCL REP 55

N/A

R (SG, JK & YT) v Secretary of State for the Home Department

[2016] EWHC 2639 (ADMIN), [2016] ACD 133

Immigration – asylum support – Directive 2003/9/EC – ECHR, Articles 8, 14 – whether Secretary of State had discriminated, acted irrationally or failed to have regard to the best interests of children in setting the rate of asylum support payments.

R (Essex County Council) v Secretary of State for Education

[2016] EWHC 1724 (ADMIN)

Education – government grants – whether the Secretary of State had taken an irrational or unfair approach to criteria for allowing carry forward of a grant to a local authority for Early Years childcare – whether the Secretary of State had failed to comply with the public sector equality duty.

Breyer Group plc v Department of Energy and Climate Change

[2015] EWCA CIV 408, [2015] 1 WLR 4559, [2016] 2 ALL ER 220, [2014] EWHC 2257 (QB), [2015] 2 ALL ER 44, [2014] JPL 1346

ECHR, Article 1 of First Protocol – whether goodwill and legitimate expectations not referable to concluded contracts were possessions – whether unimplemented proposal capable of interfering with right to property – whether interference capable of being justified where proposal quashed by Court of Appeal.

R (Vowles) v Secretary of State for Justice & Parole Board

[2015] EWCA CIV 56, [2015] 1 WLR 5131, [2015] 2 CR APP R(S) 6, [2015] CRIM LR 542, [2016] MHLR 66, [2014] EWHC 1495 (ADMIN), [2015] MHLR 29

ECHR, Articles 5(4), 14 – mental health – prisoner subject to transfer direction to hospital – whether failure to hold speedy review of detention by Parole Board following recommendation for conditional discharge by First-tier Tribunal.

ZM & AB v HM Revenue & Customs

[2013] UKUT 0547 (AAC), [2014] AACR 17

Tax credits – whether there is right of appeal in relation to reg.5(8) of the Tax Credits (Claims and Notification) Regulations 2004 – whether s.14 of the Tax Credits Act 2002 had to be 'read down' to be compatible with ECHR, Article 6.

R (Rotherham Metropolitan Borough Council & others) v Secretary of State for Business, Innovation and Skills

[2015] UKSC 6, [2015] PTSR 322, [2015] 3 ALL ER 1, [2015] BLGR 323, [2015] 3 CMLR 20, [2014] EWCA CIV 1080, [2014] PTSR 1387, [2015] 1 ALL ER 242, [2014] BLGR 589, [2014] 3 CMLR 51, [2014] EWHC 232 (ADMIN), [2014] BLGR 389, [2014] ACD 75

EU Structural Funds – whether Defendant's allocation of Structural Funds to regions rational – whether allocation consistent with EU law principles of proportionality and equality.

R (Kerman & Co LLP) v Legal Ombudsman

[2014] EWHC 3729 (ADMIN), [2015] 1 WLR 2081

Legal Services Act 2007, s.132 – Legal Ombudsman – whether claimant solicitors firm was successor to sole practitioner as respondent to complaint.

Education

James's education practice covers schools (maintained and independent) and further and higher education.

He has appeared before a range of tribunals, including regularly the Administrative Court, FTT (SEND) (formerly SENDIST), and Upper Tribunal (AAC), and also the Court of Appeal, FTT (Care Standards), Special Educational Needs Tribunal for Wales, General Teaching Council, county courts and IAPs.

His schools work has included advice and advocacy on Academies and city technology colleges, special educational needs, age 19+ SEN education, disability discrimination, school exclusions, admissions, independent schools' registration and standards, Ofsted inspections, local authorities' duty to educate otherwise than in school, school transport, residential placements, schools and Early Years childcare funding, and staffing issues.

James's higher education work has included appearances in the county court and High Court in judicial reviews and claims for breach of contract, negligence and race, disability and sex discrimination against universities, as well as advisory work on HE and FE governance, regulation, and organisation, legislation and student funding.

R (LH) v BRIT School

[2017] EWHC 1985 (ADMIN)

Education – admissions – whether City Technology College of the Arts required to comply with School Admissions Code – whether school entitled to withdraw offer of 6th Form place – whether decision irrational.

R (Essex County Council) v Secretary of State for Education

[2016] EWHC 1724 (ADMIN)

Challenge to the Secretary of State for Education's decision to cut funding to Sure Start Capital Funding in Essex. Challenge on basis that the decision was contrary to a substantive legitimate expectation, irrational, in breach of the consultation requirements and contrary to s 149 Equality Act 2010.

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R (Hassan) v Coventry University

[2016] EWHC 654 (ADMIN)

Higher education – whether a university had acted irrationally or unfairly in refusing to extend the deadline for a student to enroll on a course.

Mr. & Mrs. X v Governing Body of a School

[2015] UKUT 0007 (AAC), [2015] ELR 133

Disability discrimination – exclusion from school – Equality Act 2010 (Disability) Regulations 2010, reg.4 – meaning of "a tendency to … physical abuse of other persons" – whether reg.4 applies to children – whether pupil's behaviour was manifestation of tendency to physical abuse.

Scarborough v Christ Church Canterbury University

(BRIGHTON COUNTY COURT, HHJ SIMPKISS, CLAIM NO.2IR643251)

Higher education – whether contract claim against university was abuse of process because it could have been brought as claim for judicial review or under the Disability Discrimination Act 1995.

GC & JC v Tameside Metropolitan Borough Council

[2011] UKUT 293 (AAC), [2011] ELR 470

Special educational needs – adequacy of FTT (SEND)'s reasons – determination of contents of Parts 3 and 4 of SEN statement.

R (Crawford) v University of Newcastle upon Tyne

[2014] EWHC 162 (ADMIN), [2014] ELR 110

Higher education – whether university complied with the requirements of its course handbook in marking final examination – whether university acted unfairly in application of its Academic Appeals Procedure – whether OIA was adequate alternative remedy.

CW & KW v Staffordshire County Council

[2012] UKUT (AAC) HS/1333/2012

Special educational needs – whether material error of fact in FTT (SEND)'s decision.

Information and Data Protection

James regularly represents and advises the Information Commissioner, applicants and a range of public authorities, including government departments and agencies, in relation to freedom of information appeals before the First-tier Tribunal (Information Rights) under FOIA 2000 and the EIR 2004. He has also acted in a number of appeals to the Upper Tribunal (AAC).

James has appeared in the county court in proceedings under the DPA 1998 and EU General Data Protection Regulation (GDPR) for data subjects and public and private sector data controllers in cases concerning subject access requests and rectification of personal data. He has represented the Information Commissioner in enforcement notice and monetary penalty notice appeals under the DPA 1998 (including the first three appeals against MPNs concerning direct marketing communications under the Privacy and Electronic Communications (EC Directive) Regulations 2003).

He regularly advises data controllers (including government departments, local authorities, regulators and major companies) and others on data privacy issues such as data sharing, data transfers outside the EEA, handling subject access requests, implementing the GDPR, and related issues under Article 8 ECHR (right to private life).

Stevenson v Information Commissioner & Department of Health; Department of Health v Information Commissioner & Stevenson

FIRST-TIER TRIBUNAL (INFORMATION RIGHTS), EA/2016/0240 & 0246

FOIA, ss.40, 41 – whether transcripts of 'closed' interviews conducted by Morecambe Bay Investigation subject to duty of confidentiality and exempt under s.41 FOIA.

Dransfield v Information Commissioner & Devon County Council; Craven v Information Commissioner & Department of Energy and Climate Change

[2015] EWCA CIV 454, [2015] 1 WLR 5316, [2016] 3 ALL ER 221, [2016] ENV LR 9

FOIA, s.14(1) – EIR, reg.12(4)(b) – whether information request vexatious or manifestly unreasonable.

Dransfield v Information Commissioner & Devon County Council; Craven v Information Commissioner & Department of Energy and Climate Change

[2015] EWCA CIV 454, [2015] 1 WLR 5316, [2016] 3 ALL ER 221, [2016] ENV LR 9

FOIA, s.14(1) – EIR, reg.12(4)(b) – whether information request vexatious or manifestly unreasonable.

Amber UPVC Fabrications Ltd v Information Commissioner

FIRST-TIER TRIBUNAL (INFORMATION RIGHTS), EA/2014/0112

DPA, s.55A – PECR, reg.21 – live direct marketing calls – whether Commissioner entitled to serve monetary penalty notice.

Amber UPVC Fabrications Ltd v Information Commissioner

FIRST-TIER TRIBUNAL (INFORMATION RIGHTS), EA/2014/0112

DPA, s.55A – PECR, reg.21 – live direct marketing calls – whether Commissioner entitled to serve monetary penalty notice.

Information Commissioner v Niebel

[2014] UKUT 255 (AAC), [2015] AACR 1, [2014] 2 INFO LR 162, FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) – [2013] 2 INFO LR 329

DPA, s.55A – Directives 2002/58/EC and 2009/136/EC – direct marketing text messages – whether Commissioner entitled to serve monetary penalty notice – whether contravention of PECR was of a kind likely to cause substantial damage or substantial distress.

Information Commissioner v Niebel

[2014] UKUT 255 (AAC), [2015] AACR 1, [2014] 2 INFO LR 162, FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) – [2013] 2 INFO LR 329

DPA, s.55A – Directives 2002/58/EC and 2009/136/EC – direct marketing text messages – whether Commissioner entitled to serve monetary penalty notice – whether contravention of PECR was of a kind likely to cause substantial damage or substantial distress.

Information Commissioner v Niebel

[2014] UKUT 255 (AAC), [2014] 2 INFO LR 162, FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) – [2013] 2 INFO LR 329

DPA, s.55A – whether Commissioner entitled to serve monetary penalty notice – whether contravention of PECR was of a kind likely to cause substantial damage or substantial distress.

Cabinet Office v Information Commissioner & Aitchison

[2013] UKUT 0526 (AAC), [2013] 2 INFO LR 336, FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) – [2012] 2 INFO LR 293

Freedom of information – whether public interest favoured maintenance of FOIA, s.35(1)(a), (b) exemptions for information about Rowntree takeover – Cabinet collective responsibility – relevance of changes to 'the 30 year rule'.

UK Coal Mining Ltd v Information Commissioner

[2012] UKUT 212 (AAC), [2012] 2 INFO LR 491 EIR

reg.12(5)(e) – FOIA, s.43 – whether FTT erred in assessment of public interest balance in respect of disclosure of certain provisions of a lease and under-lease.

Local Government

James's local government experience includes advisory and litigation work for a number of local authorities and central government on a wide range of issues including vires, delegation, the well-being power/general power of competence, local government pensions, local government finance, governance, Members' conduct (including acting as legal advisor to Members' Conduct Committees and Appeal Committees), service cuts, community care (including asylum support, and age assessment), Local Government Ombudsman complaints, EU structural funds (including ERDF funds), the public sector equality duty, and government grants and subsidies.

He has appeared in the Administrative Court and Upper Tribunal in judicial reviews on local government matters, as well as in the Court of Appeal and Supreme Court.

James's work in this area often overlaps with his other areas of specialism, such as Public, Education, Information and EU Law.

R (Harvey) v London Borough of Haringey & Secretary of State for Housing, Communities and Local Government

[2018] EWHC 2871 (ADMIN)

Local Government Pensions – human rights – whether a local authority had discriminated contrary to Article 14 ECHR (read with Article 1 of the First Protocol) by refusing to grant a pension to the surviving unmarried cohabiting partner of a deceased member of the Local Government Pension Scheme who had not become a member of the 2008 LGPS Scheme.

R (Harvey) v London Borough of Haringey & Secretary of State for Housing, Communities and Local Government

[2018] EWHC 2871 (ADMIN)

Local Government Pensions – human rights – whether a local authority had discriminated contrary to Article 14 ECHR (read with Article 1 of the First Protocol) by refusing to grant a pension to the surviving unmarried cohabiting partner of a deceased member of the Local Government Pension Scheme who had not become a member of the 2008 LGPS Scheme.

R (Essex County Council) v Secretary of State for Education

[2016] EWHC 1724 (ADMIN)

Education – government grants – whether the Secretary of State had taken an irrational or unfair approach to criteria for allowing carry forward of a grant to a local authority for Early Years childcare – whether the Secretary of State had failed to comply with the public sector equality duty.

R (Rotherham Metropolitan Borough Council & others) v Secretary of State for Business, Innovation and Skills

[2015] UKSC 6, [2015] PTSR 322, [2015] 3 ALL ER 1, [2015] BLGR 323, [2015] 3 CMLR 20, [2014] EWCA CIV 1080, [2014] PTSR 1387, [2015] 1 ALL ER 242, [2014] BLGR 589, [2014] 3 CMLR 51, [2014] EWHC 232 (ADMIN), [2014] BLGR 389, [2014] ACD 75

EU Structural Funds – whether Defendant's allocation of Structural Funds to regions rational – whether allocation consistent with EU law principles of proportionality and equality.

Cheltenham Borough Council v Laird

[2009] EWHC 1253 (QB), [2009] IRLR 621

Local authority – alleged misrepresentations in pre-employment medical questionnaire – formation of contract.

European Union

James regularly addresses issues of EU law across a number of areas of his work. He has argued points of EU law before the First-tier Tribunal, Upper Tribunal, High Court and the Court of Appeal and has also appeared in a recent leading case on the EU law principles of equality and proportionality before a seven-justice constitution of the Supreme Court.

His work on EU law has included social security, data protection and electronic privacy, asylum support, discrimination, alternative dispute resolution and legal services, access to environmental information and allocation of EU Structural Funds (including ERDF funds) within the UK.

JP v Secretary of State for Work and Pensions

[2018] UKUT 161 (AAC)

Social security – EU law – right to reside – scope of Article 12.1 of Directive 2004/38/EC – meaning of "to take early retirement" in Article 17.1(a) of the Directive, and scope of Article 17.1(a).

JP v Secretary of State for Work and Pensions

[2018] UKUT 161 (AAC)

Social security – EU law – right to reside – scope of Article 12.1 of Directive 2004/38/EC – meaning of "to take early retirement" in Article 17.1(a) of the Directive, and scope of Article 17.1(a).

R (JK (Burundi)) v Secretary of State for the Home Department

[2017] EWCA CIV 433, [2017] 1 WLR 4567, (2018) 21 CCL REP 55

Immigration – asylum support – Directive 2003/9/EC – ECHR, Articles 8, 14 – whether Secretary of State had discriminated, acted irrationally or failed to have regard to the best interests of children in setting the rate of asylum support payments.

R (JK (Burundi)) v Secretary of State for the Home Department

[2017] EWCA CIV 433, [2017] 1 WLR 4567, (2018) 21 CCL REP 55

N/A

R (SG, JK & YT) v Secretary of State for the Home Department

[2016] EWHC 2639 (ADMIN), [2016] ACD 133

Immigration – asylum support – Directive 2003/9/EC – ECHR, Articles 8, 14 – whether Secretary of State had discriminated, acted irrationally or failed to have regard to the best interests of children in setting the rate of asylum support payments.

R (SG, JK & YT) v Secretary of State for the Home Department

[2016] EWHC 2639 (ADMIN), [2016] ACD 133

Immigration – asylum support – Directive 2003/9/EC – ECHR, Articles 8, 14 – whether Secretary of State had discriminated, acted irrationally or failed to have regard to the best interests of children in setting the rate of asylum support payments.

Dransfield v Information Commissioner & Devon County Council; Craven v Information Commissioner & Department of Energy and Climate Change

[2015] EWCA CIV 454, [2015] 1 WLR 5316, [2016] 3 ALL ER 221, [2016] ENV LR 9

FOIA, s.14(1) – EIR, reg.12(4)(b) – whether information request vexatious or manifestly unreasonable.

Craven v Information Commissioner & Department of Energy and Climate Change

[2012] UKUT 442 (AAC), [2013] 1 INFO LR 335

FOIA, s.14(1) – EIR, reg.12(4)(b) – whether information request vexatious or manifestly unreasonable.

R (Rotherham Metropolitan Borough Council & others) v Secretary of State for Business, Innovation and Skills

[2015] UKSC 6, [2015] PTSR 322, [2015] 3 ALL ER 1, [2015] BLGR 323, [2015] 3 CMLR 20, [2014] EWCA CIV 1080, [2014] PTSR 1387, [2015] 1 ALL ER 242, [2014] BLGR 589, [2014] 3, CMLR 51, [2014] EWHC 232 (ADMIN), [2014] BLGR 389, [2014] ACD 75

EU Structural Funds – whether Defendant's allocation of Structural Funds to regions rational – whether allocation consistent with EU law principles of proportionality and equality.

Information Commissioner v Niebel

[2014] UKUT 255 (AAC), [2015] AACR 1, [2014] 2 INFO LR 162, FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) – [2013] 2 INFO LR 329

DPA, s.55A – Directives 2002/58/EC and 2009/136/EC – direct marketing text messages – whether Commissioner entitled to serve monetary penalty notice – whether contravention of PECR was of a kind likely to cause substantial damage or substantial distress.

JR v Secretary of State for Work and Pensions

[2014] UKUT 0154 (AAC)

Social security – EU law – whether carer who was in receipt of Carer's Allowance was thereby a worker or self-employed person such as to have a right to reside.

VP v Secretary of State for Work and Pensions

[2014] UKUT 0032 (AAC), [2014] AACR 25

Social security – EU law – compatibility of the Accession (Immigration and Worker Registration) Regulations 2004 with the derogation under the A8 Accession Treaty – assessment of self- sufficiency for purposes of Article 7(1)(b) of Directive 2004/38/EC – whether entitlement to NHS treatment constituted Comprehensive Sickness Insurance.

Miskovic & Blazej v Secretary of State for Work and Pensions

[2011] EWCA CIV 16, [2011] 2 CMLR 20, [2012] AACR 11

Social security – EU law – proportionality of Accession (Immigration and Worker Registration) Regulations 2004 – meaning of "legally working" – Directive 2004/38, article 23.

Professional Discipline & Regulatory

James's regulatory and professional disciplinary work has covered legal services, data protection and direct marketing, independent schools' regulation, Ofsted inspections, social workers, doctors and teachers.

He regularly advises the Legal Ombudsman and has represented it in a number of judicial review challenges to its determinations. He has represented the Information Commissioner in a number of appeals against enforcement notices and monetary penalty notices issued under the Privacy and Electronic Communications (EC Directive) Regulations 2003. He has also appeared before the former General Teaching Council defending a head teacher in a 15-day hearing concerning alleged financial misconduct and acted for an NHS Trust in HC (90) 9 proceedings against a consultant.

James regularly acted as a legal advisor to the former General Social Care Council's Preliminary Proceedings Committee. He also has experience of conducting an independent review for a government department.

R (Kerman & Co LLP) v Legal Ombudsman

[2014] EWHC 3729 (ADMIN), [2015] 1 WLR 2081

Legal Services Act 2007, s.132 – Legal Ombudsman – whether claimant solicitors firm was successor to sole practitioner as respondent to complaint.

Amber UPVC Fabrications Ltd v Information Commissioner

FIRST-TIER TRIBUNAL (INFORMATION RIGHTS), EA/2014/0112

DPA, s.55A – PECR, reg.21 – live direct marketing calls – whether Commissioner entitled to serve monetary penalty notice.

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[2014] UKUT 255 (AAC), [2015] AACR 1, [2014] 2 INFO LR 162, FIRST-TIER TRIBUNAL (INFORMATION RIGHTS) – [2013] 2 INFO LR 329

DPA, s.55A – Directives 2002/58/EC and 2009/136/EC – direct marketing text messages – whether Commissioner entitled to serve monetary penalty notice – whether contravention of PECR was of a kind likely to cause substantial damage or substantial distress.

R (Rosemarine) v Office for Legal Complaints

[2014] EWHC 601 (ADMIN)

Legal Ombudsman – whether Ombudsman prevented from considering complaint because lawyer had not had opportunity substantively to respond to complaint under internal complaints procedure – whether Ombudsman demonstrated actual or apparent bias – whether Ombudsman unfair/irrational to uphold complaint based on way lawyer responded to substantive complainant.

Employment

James's employment practice has involved advisory work and advocacy, primarily in employment tribunals and the EAT, but also in the county court, High Court and Court of Appeal (appearing both as sole and junior counsel), covering a range of issues including TUPE, equal pay, employment contracts, school staffing and staff disqualification, unfair dismissal, constructive dismissal, trade unions, employment status, whistle-blowing, and discrimination. He has acted for the local authority respondents in two large, long-running multi-claimant equal pay claims.

James's employment work often overlaps with his other areas of expertise and is currently focussed primarily on TUPE, equal pay and issues concerning staffing at maintained schools and Academies.

Cavanagh & others v Secretary of State for Work and Pensions

[2016] EWHC 1136 (QB), [2016] IRLR 591, [2016] ICR 826

Contracts of employment – trade unions – whether Defendant's decision to end 'check-off' facilities for payment of trade union subscriptions breached employment contract – whether trade union entitled to enforce provisions in relation to 'check-off' under the Contracts (Rights of Third Parties) Act 1999.

Walsh v Tewkesbury Borough Council

[2011] EQLR 1107, ET

Age discrimination – justification – early release of pension – redundancy.

Cheltenham Borough Council v Laird

[2009] EWHC 1253 (QB), [2009] IRLR 621

Local authority – alleged misrepresentations in pre-employment medical questionnaire – formation of contract.

Johnson v Dixons Stores Group Retail Ltd

UKEAT/507/11/RN & UKEAT/508/11/RN (9 FEBRUARY 2012), EAT

Issue estoppel – extension of time – application for review

Kirklees Metropolitan Council v Radecki

[2009] EWCA CIV 298, [2009] ICR 1244, [2009] IRLR 555

Effective date of termination – whether summary dismissal – EAT interfering in ET's findings of fact.

Recent cases

R (Goodred) v Portsmouth City Council

[2021] EWHC 3057 (ADMIN)

Leading case on home education and duties on local authorities/parents

R (DA & DS) v Secretary of State for Work and Pensions

[2019] UKSC 21, [2019] 1 WLR 3289

Social security – human rights – whether revised welfare benefit cap discriminated against lone parents and/or their children contrary to Article 14 ECHR (read with Article 1 of the First Protocol or Article 8).

R (Harpreet Singh) v Secretary of State for the Home Department

[2018] EWCA CIV 2861

Immigration – leave to remain under the Points-Based System – whether the Upper Tribunal was entitled to find that the appellant had not supplied the required documents to the Secretary of State with an application for leave to remain – whether Secretary of State was required to afford an opportunity to correct the omission.

R (Harvey) v London Borough of Haringey & Secretary of State for Housing, Communities and Local Government

[2018] EWHC 2871 (ADMIN)

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R (Tawinder Singh) v Secretary of State for the Home Department

[2018] EWCA CIV 1669, [2015] EWHC 3633 (ADMIN)

Immigration – validity of application – whether Secretary of State entitled to treat application for further leave to remain as invalid – whether invalidity decision open to administrative review.

R (IC) v Secretary of State for the Home Department

[2018] EWHC 1164 (ADMIN)

Judicial review – costs – extent to which a partially successful claimant was entitled to his costs of a compromised claim for judicial review – whether the claimant was to be disallowed his costs due to an erroneous statement in his grounds for judicial review.

JP v Secretary of State for Work and Pensions

[2018] UKUT 161 (AAC)

Social security – EU law – right to reside – scope of Article 12.1 of Directive 2004/38/EC – meaning of "to take early retirement" in Article 17.1(a) of the Directive, and scope of Article 17.1(a).

Secretary of State for the Home Department v VC (Sri Lanka)

[2017] EWCA CIV 1967, [2018] IMM AR 517

Immigration – human rights – whether the First-tier Tribunal was entitled to find that a foreign criminal had "a subsisting parental relationship" for the purposes of paragraph 399(a) of the Immigration Rules with his children who were in foster care pending their adoption.

R (JK (Burundi)) v Secretary of State for the Home Department

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[2016] EWHC 2639 (ADMIN), [2016] ACD 133

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[2016] EWHC 1724 (ADMIN)

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[2015] EWCA CIV 454, [2015] 1 WLR 5316, [2016] 3 ALL ER 221, [2016] ENV LR 9

FOIA, s.14(1) – EIR, reg.12(4)(b) – whether information request vexatious or manifestly unreasonable.

Breyer Group plc v Department of Energy and Climate Change

[2015] EWCA CIV 408, [2015] 1 WLR 4559, [2016] 2 ALL ER 220, [2014] EWHC 2257 (QB), [2015] 2 ALL ER 44, [2014] JPL 1346

ECHR, Article 1 of First Protocol – whether goodwill and legitimate expectations not referable to concluded contracts were possessions – whether unimplemented proposal capable of interfering with right to property – whether interference capable of being justified where proposal quashed by Court of Appeal.

R (Rotherham Metropolitan Borough Council & others) v Secretary of State for Business, Innovation and Skills

[2015] UKSC 6, [2015] PTSR 322, [2015] 3 ALL ER 1, [2015] BLGR 323, [2015] 3 CMLR 20, [2014] EWCA CIV 1080, [2014] PTSR 1387, [2015] 1 ALL ER 242, [2014] BLGR 589, [2014] 3, CMLR 51, [2014] EWHC 232 (ADMIN), [2014] BLGR 389, [2014] ACD 75

EU Structural Funds – whether Defendant's allocation of Structural Funds to regions rational – whether allocation consistent with EU law principles of proportionality and equality.

R (Vowles) v Secretary of State for Justice & Parole Board

[2015] EWCA CIV 56, [2015] 1 WLR 5131, [2015] 2 CR APP R(S) 6, [2015] CRIM LR 542, [2016] MHLR 66, [2014] EWHC 1495 (ADMIN), [2015] MHLR 29

ECHR, Articles 5(4), 14 – mental health – prisoner subject to transfer direction to hospital – whether failure to hold speedy review of detention by Parole Board following recommendation for conditional discharge by First-tier Tribunal.

Mr. & Mrs. X v Governing Body of a School

[2015] UKUT 0007 (AAC), [2015] ELR 133

Disability discrimination – exclusion from school – Equality Act 2010 (Disability) Regulations 2010, reg.4 – meaning of "a tendency to … physical abuse of other persons" – whether reg.4 applies to children – whether pupil's behaviour was manifestation of tendency to physical abuse.

Achievements

Appointments

2016 Attorney General's A Panel of Civil Counsel
2012 Attorney General's B Panel of Civil Counsel
2008 Attorney General's C Panel of Civil Counse

News, Articles & Publications

Contributor, *Halsbury's Laws of England* (5th Edition), Vol.61 (Judicial Review)

Contributor, *Information Law Reports*

Contributor, *Local Government Law* (Bloomsbury) (chapter on adult social services)

Contributor, *Tolley's Employment Handbook* (chapter on discrimination and equal opportunities enforcement)

Author, *"Local authority duties under the Children Act 1989"*, PLC Public Sector

Author, *"Mount Cook 1: Whatever Happened to Leach?"* [2004] Judicial Review 49

James has given talks and training (including by podcast and webinar) on various topics in public, employment, discrimination, community care, local government, data protection, freedom of information and education law to solicitors, local authority officers, civil servants, school governors, barristers, IRP panel members, data protection officers and others.

Education

2001-2002 Inns of Court School of Law – Bar Vocational Course

2000-2001 City University – Diploma in Law

1995-2000 Brasenose College, Oxford – DPhil in Philosophy

1993-1995 University College London – MPhil in Philosophy Dawes Hicks Scholarship in Philosophy

1990-1993 University College, Oxford – BA (Hons) in Philosophy, Politics & Economics College Exhibition

Other

Queen Mother Major Scholarship, Middle Temple

Sachs Prize for performance on the BVC, Middle Temple

Benefactors CPE Scholarship, Middle Temple

James is a barrister mentor for student representatives on the City University School Exclusions Project.

James is a member of:

- Administrative Law Bar Association
- Education Law Association
- Employment Law Bar Association
- Employment Lawyers Association

> ***Combines meticulous preparation with excellent clarity of understanding of the law***
>
> LEGAL 500

> ***Able to master a huge amount of detailed material in a short timeframe.***
>
> LEGAL 500

> ***Clever and very experienced***
>
> CHAMBERS & PARTNERS

> ***He is intellectual, hard-working and thorough, and reads every last page of the case***
>
> LEGAL 500

> ***Imaginative, industrious and full of sound judgement; he will go far***
>
> LEGAL 500

> ***He has a fantastic legal mind. He gets his head around really technical arguments, and is easy to work with***
>
> CHAMBERS & PARTNERS

He got to grips with a very difficult project and he was very impressive... It was his great grasp of the complex issues in the case that was really impressive. He had obviously prepared diligently for the hearing and fully understood the arguments and the background

CHAMBERS & PARTNERS

He has a first-class intellect

LEGAL 500

Precise and to the point, he focuses on the key facts and issues

CHAMBERS & PARTNERS