

Paul Nicholls QC

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Paul Nicholls QC has a diverse practice which includes in particular cases at the commercial end of employment law but also broader commercial work and regulatory and public law cases.

A major part of his practice is in High Court employment and related commercial work. This involves urgent applications for injunctions and related relief, including search and freezing orders, applications to enforce post-termination restraints, to prevent team moves and for springboard relief and orders for the interrogation of computers in order to identify and delete confidential information. This work also involves substantial trial litigation such as team move claims, wrongful dismissal, bonus claims and restrictive covenant and garden leave trials. He also undertakes purely commercial cases involving a range of contractual disputes and commercial arbitrations.

As an example of the overlap between areas of practice, his injunction experience has led to work in a range of areas including restraining an individual from purporting to provide legal services to clients of a firm of solicitors contrary to the Legal Services Act and securing an injunction to prevent a local authority election being held.

He also undertakes the full range of statutory employment work, including heavy discrimination and whistleblowing claims which often entail multi-week hearings. He is also involved in cases which raise novel or difficult points of law, such as whether holiday pay had to include pay for voluntary overtime. He has appeared in the EAT and Court of Appeal on numerous occasions in connection with this work, in the widest range of cases such as whistle blowing, age discrimination, associative disability discrimination and members of a tribunal who fall asleep.

This work frequently has an international element and he has to advise and formulate arguments based on jurisdiction and applicable law, often seeking to avoid courts and tribunals claiming jurisdiction over litigants or persuading the English court to take jurisdiction, as in one case where he secured an injunction in England to restrain action in connection with a team move in the UAE.

He also undertakes public law cases. When on the AG's A panel, he was involved in high profile cases for the government including the Northern Rock litigation, the challenge to the Legal Aid Agency's family law tender and the lawfulness of the 'work for your benefit' system.

More recently, he has appeared in cases as diverse as a challenge to the funding of expert reports in family law proceedings, a case concerning legal aid for those bringing claims alleging deprivation of liberty, a human rights challenge to the operation of the 'statutory charge' which renders publicly funded litigants liable for payment of their own costs from a damages award and so may reduce that award and a challenge to the publication of a report by Ofsted. He also acted for the Bar Standards Board in challenges to disciplinary decisions.

A related area of practice is procurement law. He acted in a series of challenges to the awards of contracts by the Legal Aid Agency and has advised local authorities and others.

What the directories say

"He has a brain the size of a planet and is incredibly good at working things out, processing them, and articulating them in a really clear and sophisticated way."

"Skilfully blends a great intellect with a very user-friendly manner."

"Exceptionally good with the clients and devastating in his cross-examination"

"Very able and extremely hardworking, and top-rate on complex contractual disputes"

"A fiercely bright and knowledgeable barrister who is good with solicitors as well as their clients and instils complete confidence."

"Exceptionally bright and someone to use for complex High court litigation"

"Calm, clever, practical and an excellent performer in court"

"Extremely bright, commercially astute and a lovely guy to deal with"

Reported and significant cases

Flowers v East England Ambulance NHS Trust [2019] IRLR 798; Court of Appeal May 2019. Whether statutory holiday pay must include pay for voluntary overtime, affecting hundreds of thousands of NHS staff.

R (Faulkner) v Director of Legal Aid Casework [2019] 1 WLR 560, legality of the legal aid statutory charge insofar as it reduces damages awards.

King and Wood Mallesons v Goodwin Procter. Acting for a law firm partner and new firm of solicitors in damages claim based on team move. Settled.

Leonard v Grey Advertising. Acting for individual in restrictive covenant trial. Settled.

Maxwell Alves v Kounis. Acting for a law firm to restrain an individual formerly associated with a law firm from providing legal services.

Jones v Wigan Council [2018] EWHC 528, securing an injunction to restrain holding of a local authority election, apparently the first time this has been done.

Ministry of Justice v Prison Officers' Association, securing injunction to restrain a strike by prison officers.

Re Briggs [2018] 2 WLR 152, case concerning extent to which claimants in cases of deprivation of liberty were entitled to legal aid without assessment of means.

Eiger v Korshunova [2017] ICR 561, whistleblowing claim.

Kelly v PGA European Tour UKEAT/0157/17, age discrimination.

Dyson v Pellerey [2016] ICR 688, CA case concerning the enforceability of a non-compete clause.

AJ Gallagher v Skriptchenko [2016] EWHC 603, applications for springboard relief and to obtain confidential material on defendants' computers.

McCarthy [2015] EWCA Civ 12, Mehey [2014] EWCA Civ 1630, Leathley [2013] EWHC 3097, defending claims against the Bar Standards Board challenging disciplinary decisions.

AT Kearney v Baigorri [2014] EWHC 4419, application in England to restrain conduct connected with team move in UAE.

Besso v Bennett Gould 2013 Folio 1197, Commercial Court trial of dispute concerning sale of underwriting book of business and raising issues of agency.

Elsevier v Munro [2014] IRLR 766, trial of a 'garden leave' claim.

Elys v Marks and Spencer [2014] ICR 1091, case concerning a member of employment tribunal said to have fallen asleep.

R (Reilly and Wilson) v Secretary of State for Work and Pensions [2013] 1 WLR 2239, legality of the government's 'work for your benefit' scheme.

JG v Legal Services Commission [2013] 2 FLR 1174, legal aid agency's liability for costs of expert reports in cases concerning children.

Wardle v Calyon [2011] ICR 1290, leading case on the approach to career long loss in discrimination claims.

Landmark Brickwork v Sutcliffe [2011] IRLR 976, enforceability of post-termination restraints.

Drummond v Cantor Fitzgerald Acting for Cantor in a claim on a promissory note and counterclaim for wrongful dismissal which settled after cross examination of the individual's witnesses.

Aon v JLT [2010] IRLR 600, extent of obligation to make early disclosure in unlawful competition claim.

Collidge v Freeport [2008] IRLR 697, defending wrongful dismissal claim.

Barnetson v Framlington [2007] ICR 1439, scope of the without prejudice rule.

Shepherds Investments v Walters [2007] 2 BCLC 202, breach of contract and fiduciary duty by taking steps to establish a competing business.

Thomas v Farr [2007] ICR 932, enforceability of non-compete clause.

Education:

- LLB, University of Sheffield, First Class, 1989
 - Sheffield and District Law Society Prize for performance in first year exams.
 - Maxwell Law Prize based on marks in final year exams
- BCL, University of Oxford, First Class, Vinerian Scholarship, 1990