

OUR PEOPLE

Paul Nicholls KC

CALL 1992

SILK 2012

CHAMBERS & PARTNERS

"A fantastic team player. He is legally creative and stands his ground in court"

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Paul Nicholls KC 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. A substantial aspect of that work involves making or resisting applications for injunctions, of which Paul has many years' experience. This work arises in numerous contexts including applications to enforce post-termination restraints, to prevent team moves and for springboard relief, for search and freezing orders 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.

Much of this work also includes allegations of fraud. More recently he was instructed in a substantial fraud claim concerning allegations of wrong-doing against an insurance broker.

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 and whether the tribunal had territorial jurisdiction over US domiciled parties. 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 a case concerning members of a tribunal who fell 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 has 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.

In late 2020, Paul published a book called 'Employment and Commercial Disputes – the International Aspects': Bloomsbury.

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

- [Besso v Bloody Bay Hotel Development](#) – acting for an insured in a heavy Commercial Court fraud claim concerning allegations against an insurance broker.
- [Singapore arbitration](#) – acting for a firm in a dispute with a former partner concerning the enforcement of post-termination restraints.
- [Kelly v PGA European Tour](#) [2021] ICR 1124 – successful appeal against a re-engagement order.
- [Santander v Bharaj](#) [2021] ICR 580 – a leading EAT case on disclosure
- [Gemini Europe v Sawyer](#) [2020] EWHC 3377 – acting for a company in the crypto sector to enforce non-compete provisions.
- [Twist DX v Armes](#) UKEAT/0030/20 – striking out a protected disclosure claim.
- [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.
- [Maxwell Alves v Kounis](#) [2018] EWHC 1618. 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.

- [Dyson v Pelleray](#) [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.
- [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.
- [Besso v Bennett Gould](#) 2013 Folio 1197, Commercial Court trial of dispute concerning sale of underwriting book of business and raising issues of agency.
- [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.

Privacy Policy

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Expertise

Injunctions

A large part of Paul's practice involves applying for injunctions and responding to such applications. He has experience of search orders, freezing orders and doorstep delivery up orders as well as applications for injunctions to restrain breaches of contract, such as terms imposing post-termination restraints and preventing the divulging of confidential information. He once even obtained an injunction to prevent a local authority election taking place.

Business Protection

Much of Paul's work is concerned with legal steps taken to protect businesses, in particular from unlawful competition. This includes action to restrain breaches of post termination restraints, to prevent the disclosure and misuse of confidential information and to enjoin unlawful team moves, both nationally and internationally.

Commercial Litigation

Paul has experience of a wide variety of commercial litigation. Examples of his cases include a dispute about the sale of a book of business between two insurance brokers; acting for a company in the financial sector in a claim on a promissory note; an arbitration between an LLP and one of its members who sought to leave and be free of post-termination restraints; an arbitration for a public authority claiming breach of contract by a supplier; the arbitration of a dispute between a venue and a supplier. He has been involved in numerous cases about directors' breach of duty. His injunctive work leads to commercial trials as, for example, in cases where freezing orders were obtained against employees who had caused companies to make fraudulent payments to third parties.

Public and administrative law

Until he took silk, Paul was a member of the Attorney-General's A panel and undertook much judicial review work for government in that capacity including challenges to 'work for your benefit' cases for the DWP, the government's child poverty strategy, PFI decisions, the feed-in tariff for solar panels and the Northern Rock litigation. He has also done numerous cases for the Legal Aid Agency including procurement challenges, a case about payment for experts in child care cases, a case concerning funding for incapacitated persons claiming to be deprived of liberty, and another concerning the legality of the statutory charge. He has also done several public law cases for the Bar Standards Board involving challenges to its processes.

Awards



Qualifications

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
