

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 cases about business protection – dealing with restrictive covenants, team moves and misuse of confidential information. Much of this involves making or resisting applications for injunctions including applications for springboard relief, search and freezing orders and orders for the interrogation of computers in order to identify and delete confidential information.

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 wrongdoing against an insurance broker.

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 that 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.

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 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.
- 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 Freepost [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 BCAC 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

Business Protection and Injunctions

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.

A large part of his 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 disclosure of confidential information. He once even obtained an injunction to prevent a local authority election taking place.

Featured Cases

- Boydell v NZP [2023] EWCA Civ 373 – case concerning enforcement of non-compete clause
- Gemini Europe v Sawyer [2020] EWHC 3377 – acting for a company in the crypto sector to enforce non-compete provisions.
- 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.
- AJ Gallagher v Skiptchenko [2016] EWHC 603, applications for springboard relief and to obtain confidential material on defendants' computers.
- Dyson Technology v Pellerey [2016] EWCA Civ 87 – a leading case on the enforcement of non-compete clauses
- 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.
- Aon v JLT [2010] IRLR 600, extent of obligation to make early disclosure in unlawful competition claim
- Shepherds Investments v Walters [2007] 2 BCAC 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.

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.

Featured Cases

- *Kew Green Group v Lamb* [2023] EWHC 1289 – acting for individuals sued by a hotel management company which alleged breach of contract and fiduciary duty.
- *James's Place Wealth Management v Dixon-Nutt* [2023] EWHC 1431 – acting for a financial adviser company in a dispute with an adviser concerning commissions and other matters.
- *InHealth Pathology v Fox* [2023] EWHC 1132 – a contractual and tortious claim between a health service provider and a competitor alleging misuse of confidential information and tortious conspiracy
- *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.
- *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.
- *Besso v Bennett Gould* 2013 Folio 1197, Commercial Court trial of a dispute concerning the sale of underwriting book of business and raising issues of agency.
- *Barnetson v Framlington* [2007] ICR 1439, scope of the without prejudice rule.

Employment Law

"He is a top-class choice for any high-value, tricky dispute, particularly bonus disputes. He is a mix of fierce intellect combined with strategic vision and commercial awareness." "He is one of the best advocates on black-letter law, with such a creative, can-do approach. He is decisive and not equivocal, being fully part of the decision-making process." "He is technically and intellectually a brain on a stick. His ability to translate complex arguments to clients makes him highly client-friendly. He is strategically very strong, being massively thorough in his preparations." – Chambers & Partners, 2024

"Paul has a tremendous ability to take highly technical points and make them really work for the client." "Paul is phenomenally bright and his advocacy and written work are clear and powerful." – Chambers & Partners

Paul has long experience of practice in the full range of employment law claims, both statutory and common law. Examples include:

- *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
- *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.
- *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 the 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.
- *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.

- *Elys v Marks and Spencer* [2014] ICR 1091, case concerning a member of employment tribunal said to have fallen asleep.
- *Wardle v Calyon* [2011] ICR 1290, leading case on the approach to career long loss in discrimination claims

Public, Administrative and Regulatory Law

Until he took silk, Paul was a member of the Attorney-General's A panel and undertook much judicial review work for the 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 childcare 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.

- *R (Faulkner) v Director of Legal Aid* [2018] EWCA Civ 1656 – enforceability of legal aid statutory charge
- *R (Ames) v Lord Chancellor* [2018] EWHC 2250 – liability of legal aid for counsel's fees
- *Re Briggs* [2017] EWCA Civ 1169 – definition of incapacitated person and liability of legal aid in relation to such persons' cases
- *McCarthy* [2015] EWCA Civ 12, *Mehey* [2014] EWCA Civ 1630, *Leathley* [2013] EWHC 3097, defending claims against the Bar Standards Board challenging disciplinary decisions.
- *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.

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