



Mungo Wenban-Smith

Year of call: 2004

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Mungo Wenban-Smith has a broad practice spanning a wide range of administrative & public law, including work in the court of protection, environmental & planning law, property law and employment law.

Areas of expertise

Public Law

Planning and Property

Commercial

Public Law

Mungo's public law practice encompasses a broad range of areas including local government, community care, mental health and mental capacity, homelessness and financial services regulation. Human rights issues are frequently at the core of the developing law in these areas. He appears on behalf of the Government, public bodies including local authorities and individuals in cases before specialist tribunals, the county court on statutory appeal and in the High Court in judicial review proceedings.

He appears regularly in a wide range of best interests proceedings brought under the Mental Capacity Act 2005 before the Court of Protection, on behalf of local authorities, the Official Solicitor, family members and health bodies.

Cases of note:

***R (SAVE Britain's Heritage) v. SSCLG & various local authorities* [2012] EWHC** - representing interested party local authorities in a JR challenge to a decision to grant funding in the total sum of £35.5 million to thirteen local authorities as part of a scheme of structured exit from the "Housing Market Renewal" programme set up by the previous Government.

***R (Qassim) v. Birmingham CC* [2012] EWHC** – acting for Birmingham in defence of a JR challenge to the lawfulness of a guardianship application made in respect of the claimant's adult son pursuant to section 7 of the Mental Health Act 1983, with associated claims alleging breaches of ECHR Articles 5 and 8.

***Ghadami v. Harlow District Council* [2011]-[2012] EWHC (QBD)** – acting for the defendant local authority in defence of a claim brought by a local businessman seeking several million pounds damages based on the breach of an historical agreement purporting to oblige all council business with the claimant to be conducted by the Council's chief executive personally.

***R (The London Cycling Campaign & Another) v. Transport for London* [2011] EWHC** -

representing TfL in defence to a JR claim brought by two major cycling campaign groups that challenged the lawfulness of TfL's decision to continue to allow motorcycles to use the bus lanes of London's major trunk roads during a further trial period.

***R (National Deaf Children's Society) v. Stoke-on-Trent City Council* [2011] EWHC** - representing local authority respondent to JR proceedings in a challenge to its decision to restructure the provision of services for deaf children and the eligibility criteria for access to special educational provision for deaf children, on the grounds of alleged flaws in its consultation process and a failure to conduct a valid equality impact assessment under s.149 of the Equality Act 2010.

***Suffolk CC v. SA (by her litigation friend the Official Solicitor) & others* [2011] EWHC** - representing local authority in a Court of Protection case, obtaining an urgent injunction under the Forced Marriage (Civil Protection) Act 2007 to prevent the removal of a young lady, suffering from Down's Syndrome and lacking capacity to enter into sexual relations, to Bangladesh by her family to be forcibly married.

***R (Oxfordshire County Council) v Bus Lane Adjudicator* [2010] All ER (D) 198 (Apr)** - representing the Council in JR proceedings concerning the enforcement of penalty charges for bus lane contraventions in Oxford's city centre.

***Al Rawi & others v. FCO & Others* [2009]-[2010] EWHC** – member of the team of Counsel instructed to defend various government departments/agencies against damages claims brought by a number of former Guantanamo Bay detainees. During the course of this case, Mungo received developed vetting security clearance and, consequently, can be instructed in cases involving highly classified documents.

***R (Williams) v. Financial Ombudsman Service Ltd & Lloyds TSB* [2009] EWHC** – acting for the Financial Ombudsman in defending a JR challenge to a decision by one of the FOS's Ombudsmen that an ex-gratia offer by Lloyds TSB to compensate for any distress and inconvenience arising out of an unexpectedly unattractive exchange rate applied to an international payment made by the Claimant was a reasonable proposal for resolving his complaint.

***PL (by her litigation friend the Official Solicitor) v. Cambridgeshire County Council* [2010] EWHC** - representing local authority in the Court of Protection in response to one of the first applications brought under section 21A Mental Capacity Act 2005, challenging the standard authorisation of the deprivation of liberty in a care home of a highly educated 90-year-old lady suffering from advanced dementia who wished to return to die in her own home rather than remain in an institutional setting.

Employment law Mungo has extensive experience of all aspects of employment law, having acted on behalf of both employees and employers, ranging from family firms to local authorities and large businesses, in cases before the ET relating to unfair dismissal, wrongful dismissal, discrimination (victimisation, race, age, sexual orientation and disability) and unlawful deduction of wages as well as breach of contract claims in the courts. He also advises on non-contentious matters and in relation to seeking urgent injunctive relief against threatened breaches of restrictive covenants.

Recent cases include:

- ***Bassi v. Westminster Special School* [2012] ET Birmingham** – representing the respondent school in defence of a claim brought by a former senior teacher alleging unfair dismissal; disability discrimination; unlawful deduction of wages; and unlawful detriment consisting of unwarranted suspension.
- 2012 - advising a senior fixed income trader at a large investment bank in relation to his obligations to disclose previous practices of LIBOR/EURIBOR market manipulation to his current employer; negotiating a seven figure exit package for him; and advice as to his disclosure obligations to prospective future employers.
- ***Frewer v. Nationwide Building Society* [2011] ET Birmingham** - over six days, successfully

defending Nationwide in a claim by a former employee who alleged that her selection for redundancy was based on her age rather than ability, and that she was subsequently victimised for having brought a complaint about the way her redundancy process had been handled.

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