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### Chambers & Partners

James Strachan QC has an extensive practice in administrative and public law, planning and environment, major infrastructure & DCOs, compulsory purchase and compensation, local government, financial services and commercial regulatory law, human rights and privacy.

His practice in administrative and public law covers a large number of areas including national security, immigration, prisons, social security, civil liberties and policing, administration of criminal and civil justice, national health service, mental health and local government administration. He acts for central and local Government and individuals. He is recommended in Administrative & Public Law and Human Rights Law by the current editions of both the UK Legal 500 and Chambers & Partners, who describe him as “a superb lawyer”.

He has a long-standing specialist practice in planning and environmental law with 25 years’ experience. He acts for a very wide range of developers, as well as the Government, local authorities and development corporations, in relation to all forms of development, including housing and affordable housing, garden villages and new settlements, retail, industrial and commercial development, renewable energy, education provision, aviation, roads and specialist heritage and conservation development. He regularly appears at sections 77/ 78 public inquiries and hearings, local plan examinations and in the courts in these areas. He advises on Community Infrastructure Levy issues as well as State Aid issues in respect of development arising under EU law and also Human Rights issues that can arise with development.

James is very experienced in a wide range of environmental and environmental control issues in relation to development and infrastructure, including in particular Environmental Impact Assessment, Habitats Regulation Assessment, Environmental Permitting, Noise Assessments, Flooding, Heritage Impact Assessment, Landscape and Visual Impact Assessment, Control of Hazardous Substances, Dangerous Substances, Explosives, Safeguarding areas and risk assessments of various kinds.

James was named as ‘Environmental & Planning Silk of the Year’ at the Chambers & Partners Bar Awards 2016 and shortlisted as ‘Environmental & Planning Silk of the Year 2020’ and is recommended as leading silk in both

areas in the current editions of Chambers & Partners and the Legal 500 .

James is also experienced in major infrastructure projects, compulsory purchase and compensation. He has promoted both *High Speed 2 ("HS2") Phase 1 (London- Birmingham)* and *HS2 Phase 2A (Fradley to Crewe)* on behalf of DfT, and continues to work on Phase 2B. He has wide experience in aviation, acting for the Government and having dealt with aviation development at a number of airports, including Manston, Coventry, Southampton, London Lydd and Biggin Hill. He has acted for NATS on many occasions regarding windfarm development and the effect on radar infrastructure. He has been involved in various NSIPs under the Planning Act 2008 for major road proposals, airports, energy generation projects, waste and other major schemes, as well as the promotion of CPOs for major town centre regeneration, highway schemes and water and sewerage infrastructure.

James also has specialist expertise in field of financial services and associated commercial law and regulatory work, with particular experience of the Financial Ombudsman Service, the Pensions Ombudsman, the Financial Conduct Authority / former Financial Services Authority and the Financial Services Compensation Scheme, as well as acting for regulated individuals and complainants in a wide area of financial services. He has been involved in major cases in respect of regulated activities under the Financial Services and Markets Act 2000 including *R(British Bankers Association) v FCA and FOS* on PPI, as well as under consumer credit protection including *Plevin v Paragon* in the Supreme Court.

James is also a specialist in the field human rights and civil liberties, acting in major cases in a number of different areas. These include the prohibition against assisted suicide and "right to die" cases, retention of DNA/ fingerprints/ data by the police and the right to private life under Article 8, deaths in custody and Article 2, repatriation of prisoners subject to foreign criminal processes and Article 6, age assessment and the rights of children, immigration detention, national security issues and Article 6, the right to freedom of expression and religion, and the right to marry and transgender rights. That experience includes appearing in a wide range of courts, including the European Court of Human Rights (Grand Chamber), the Supreme Court, Court of Appeal, High Court, Upper Tribunal and SIAC.



He has a particular interest in privacy and media law, having acted in cases concerning breach of confidence, protection from harassment and protection of reputation and having appeared as a witness before House of Commons Culture, Media and Sport Committee on Privacy and Media Intrusion.

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## PRACTICE AREAS

- Planning & Environment
  - Public & Administrative Law
  - Human Rights & Civil Liberties
  - Financial Services & Commercial Regulation
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## PRACTICE AREAS

### PLANNING & ENVIRONMENT

#### COURT CASES INCLUDE:

*R(Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council* [2020] UKSC 3 – for SSOBT in the Supreme Court on Green Belt and question of whether visual appearance is a material consideration for minerals application

*UBB Waste Essex Ltd -v- Essex County Council* [2020] JPL 191; [2019] EWHC 1924 (Admin) – Energy from Waste plant for UBB and interpretation of planning permission and Environmental Statement

*City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 3819 (Admin) –heritage case for redevelopment proposals for Grade I listed Jacobean House and Grade I listed Registered Park and Gardens

*R (Thornton Hall Ltd) v Wirral Metropolitan Borough Council* [2019] EWCA Civ 737; [2020] 1 P&CR 12; [2019] JPL 1100 – for Thornton Hall Ltd in Court of Appeal on successful application to quash planning permission 5 years out of time

*CEG Land Promotions II Ltd v Secretary of State for Housing Communities and Local Government* [2019] 2 P&CR 11; [2018] EWHC 1799 (Admin); [2018] JPL 1362 –for CEG on challenge to approach to “valued landscapes” in the NPPF

*Dignity Funerals Ltd v Breckland District Council* [2017] EWHC 1492 (Admin) – for Dignity on challenge to the grant of planning permission for crematorium

*Neal Soil Suppliers Ltd v Natural Resources Wales No.2* [2017] EWCA Crim 645 –for NRW on environmental prosecution appeal for breach of environmental permit in respect of waste

*R(Isles of Scilly Steamship Co Ltd) v Cornwall Council & Penzance Heliport* (2017) – for Claimant in quashing unlawful grant of planning permission for new heliport for Isles of Scilly

*Neal Soil Supplies Ltd v Natural Resources Wales No.1* [2016] EWCA Crim 41 –for NRW on environmental prosecution appeal for breach of environmental in respect of waste recovery

*Samuel Smith Old Brewery (Tadcaster) v Selby District Council* [2016] JPL 602; [2015] EWCA Civ 1107 – for SSOBT on principles regarding the duty to cooperate for Local Plans

*R(Forge Field Society) v Sevenoaks District Council* [2015] JPL 2015; [2014] EWHC 1895 (Admin) – for Claimant on heritage impact assessment

*R(Kverndal) v London Borough of Hounslow and Lend Lease Residential (CG) Plc* [2015] EWHC 3084 (Admin) – for developer defending approval of mixed use tower for 137 dwellings in Chiswick High Road

*R(Milton (Peterborough) Estates Co (t/a Fitzwilliam (Malton) Estate) v Ryedale District Council* [2015] EWHC 1948 (Admin); [2015] JPL 1312 – for Estate regarding superstore in Malton

*Taylor Wimpey West London v Secretary of State for Communities and Local Government* [2015] JPL 257; [2014] EWHC 2082 (Admin) –for Taylor Wimpey regarding planning permission for development of 193 residential units on former school site

*RSPB v Secretary of State for Communities and Local Government & Lydd Airport Action Group v Secretary of State for Communities and Local Government and Lydd Airport* [2014] JPL 1041; [2014] Env LR; [2014] EWHC 1523 (Admin) – for Airport operator for extension of runway and airport facilities at London Lydd Airport dealing with European sites designated under the Habitats and Wild Birds Directive and Dungeness Nuclear Power Station and Office for Nuclear Regulation’s approach to risk from aircraft

*R(Botley Parish Action Group) v Eastleigh Borough Council & MA Botley Ltd and others* [2014] EWHC 4388 (Admin) for developer defending planning permission for 1,400 homes and 4,000 sq m of employment space, primary school and community facilities at Botley

*(1) John Emilyn Stone (2) James Emilyn Stone v (1) Secretary of State for Communities & Local Government (2) Cornwall Council* [2014] JPL 1038 [2014] EWHC 1456–for Sec of State on enforcement notice in respect of mixed use development and planning unit principles

*Timmins & AW Lymm v Gedling Borough Council* [2014] EWHC 654 (Admin) – for funeral service operator on challenge to grant of planning permission by local authority for new crematorium and cemetery in the Green Belt

*(1) Deborah Jane Aston (2) Westcott Meadow Action Group Ltd v (1) Secretary of State for Communities & Local Government (2) Mole Valley District Council (3) Taylor Wimpey UK Ltd* [2014] 2P&CR 10; [2013] JPL 1597; [2013] EWHC 1936 –for Taylor Wimpey resisting challenge to the grant of planning permission for housing within an AONB and concept of major development within the NPPF

*R (Manchester Ship Canal Company Ltd) v Environment Agency* [2013] EWCA Civ 542 –for MSCC on challenge to EA’s approach to flood defence assessment

*Walsall Metropolitan Borough Council v Secretary of State for Communities and Local Government* [2013] EWCA Civ 370 – appeared in Court of Appeal on important issue of jurisdiction for second appeal under s.289 of the Town and Country Planning Act 1990

*UK Coal Mining v Secretary of State for Communities and Local Government* [2013] EWHC 2142 (Admin) – s.288 challenge to refusal for open cast coal mining proposal

*Telford and Wrekin Council v Secretary of State for Communities and Local Government* [2013] EWHC 79 (Admin) – on interpretation of condition imposed on retail permission

*Samuel Smith Old Brewery Tadcaster v Selby District Council* [2013] EWHC 1159 (Admin) –for SSOBT on challenge to grant of planning permission for car-park works

*Larkfleet Ltd v Secretary of State for Communities and Local Government* [2012] EWHC 3592 (Admin) – s.288 challenge to refusal of sustainable urban extension proposal of 1,000 homes

*Winfield v Secretary of State for Communities & Local Government* [2012] EWCA Civ 1415 Court of Appeal and High Court on resisting challenge in respect of advertisement control

*R(Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin) – definition of development and EIA requirements in respect of major poultry units

*Harbidge v Secretary of State for Communities and Local Government* [2012] EWHC 1128 (Admin) – s.289 challenge to enforcement notice appeal on use of property for worship

*R (Cala Homes (South) Limited) v. Secretary of State for Communities and Local Government (Cala Homes II)* [2011] EWCA Civ 639 and [2011] EWHC 97 (Admin)– for Cala on abolition of Regional Spatial Strategies

*Elvington Park Ltd v Secretary of State for Communities & Anor* [2011] EWHC 3041 (Admin) – S.289 challenge to enforcement notice on use of airfield for motorsports

*Smith, R (on the application of) v Land Registry (Peterborough Office) & Anor* [2010] EWCA Civ 200 – approach to adverse possession of highway and definition of highway

*Cox v Secretary of State for Communities & Local Government* [2010] EWHC 104 (Admin) – s.288 challenge concerning telecommunications mast and base station

*R (Cala Homes (South) Limited) v. Secretary of State for Communities and Local Government (Cala Homes I)* [2010] EWHC 2866 (Admin) – for Cala on landmark challenge quashing decision of Secretary of State to abolish Regional Spatial Strategies

*R(Stafford Borough Council) v Secretary of State for Communities and Local Government* [2011] EWHC 936 (Admin) – s.288 challenge to confirmation of a purchase notice under s.137 of TCPA 1990

*Hampshire County Council v Beazer Homes Ltd* [2010] EWCA 3095 (QB) – for HCC on proper interpretation of s.106 agreement on return of unused s.106 contributions

*Brecon Beacons National Park Authority v National Assembly for Wales* [2010] EWHC 3780 – acting for NAW on challenge to anaerobic digester

*Robert Hitchins Ltd v Secretary of State for Communities and Local Government* [2010] EWHC 1157 (Admin) – s.288 challenge in respect of proposal for 750 dwellings

*Stop Pyestock Blot Act Today (SPLAT) v Secretary of State for Communities and Local Government* [2010] EWHC 1520 Admin on application of plan-led approach

*Tegni Cymru Cyf v The Welsh Ministers & Anor* [2010] EWHC 1106 (Admin) – s.288 challenge on refusal of planning permission for windfarm in Denbighshire

*Brown, R (on the application of) v Stobart Air Ltd* [2010] EWCA Civ 523 & [2009] EWHC 2519 – in Court of Appeal and High Court on correct approach to Environmental Impact Assessment of aviation and related development

*Metro Construction Ltd. v London Borough of Barnet* [2009] EWHC 2956 (Admin) – challenge to designation of new conservation area under s.69 Planning (Listed Buildings & CA) Act 1990

*Ashtenne Industrial Fund Ltd Partnership & Anor v Secretary of State for Communities and Local Government* [2009] EWHC 1746 (Admin) on challenge regarding mixed use scheme

*Guildford Borough Council v Secretary of State for Community and Local Government* [2009] EWHC 3531 (Admin) – s.288 challenge on refusal of planning permission for development in Green Belt

*Newland v Secretary of State for Communities and Local Government* [2008] EWHC 3131 (Admin) – enforcement notice concerning use of site for residential caravan for gypsy family

*Capel Parish Council v Surrey County Council* [2009] EWHC 350(Admin) – challenge to Waste Plan allocation of waste incinerator at Clockhouse Brickworks and grant of three planning permission

*O2 (UK) Ltd v Secretary of State for Communities & Local Government* [2009] EWHC 522 (Admin) – challenge to enforcement notice concerning GPDO rights for telecommunication apparatus

*West Midlands International Airport Ltd v Secretary of State for Communities and Local Government & Ors* [2008] EWHC 2309 (Admin) – s.288 aviation development Coventry Airport Michael, R (on the application of) v Secretary of State for Communities and Local Government [2008] EWHC 2646 (Admin) Oct 2008, Planning appeals – challenge to confirmation of CPO

*South Cambridgeshire District Council v Secretary of State for Communities & Local Government* [2008] EWCA Civ 1010 on approach to distinguishing decision letters and consistency in decision letters

*R(Collis) v Secretary of State for Communities and Local Government* [2007] EWHC 2625 (Admin) – legal challenge to confirmation of CPO made by LB Tower Hamlets

*Jeffrey v First Secretary of State* [2007] EWCA Civ 584 – in Court of Appeal on challenge to discontinuance order under s.103 of the TCPA 1990

*Bar1 Ltd v First Secretary of State* [2007] EWHC 808 (Admin) – variation of conditions imposed on bar restaurant

*George Wimpey UK Ltd v First Secretary of State* [2007] EWHC 475 (Admin) – s.288 challenge to refusal to grant planning permission for residential development

*R (Barker) v Bromley London Borough Council, Secretary of State for Communities and Local Government intervening* [2006] UKHL 52; [2007] 1AC 470; [2006] QB 764; [2003] UKHL 45– in House of Lords, CJEU, Court of Appeal and High Court on approach EIA for reserved matters application for major Crystal Palace redevelopment

*Smith v First Secretary of State* [2006] EWHC 3014 (Admin) – s.289 enforcement notice appeal for woodland project

*Grendon v First Secretary of State* [2006] EWHC 1711(Admin) – s.288 challenge on lawful development certificate and meaning of dwellinghouse

*Winter v First Secretary of State* [2006] EWHC 491 (Admin) – s288 challenge to woodland development

*Bayfordbury Estates Ltd v First Secretary of State* [2006] EWHC 223 (Admin) – s.288 challenge on residential redevelopment proposal

*De Mulder v First Secretary of State* [2005] EWHC (Admin) – s.288 challenge to permission

*Hill v First Secretary of State* [2005] EWHC 1128 (Admin) – s.288 challenge to grant of outline planning permission



*Epping Forest DC v Sec of State for TLGR* [2005] EWHC 424 (Admin) s.288 challenge

*Evans v First Secretary of State* [2003] EWCA Civ 1523 – Court of Appeal decision on EIA requirements for development at London Metropolitan University

*Belmont Riding Centre v First Secretary of State* [2003] EWHC 1895 (Admin) – approach to planning unit and material changes of use

*London Borough of Bromley v First Secretary of State* [2003] EWHC 1499 (Admin) – s288 challenge for hangar development at London Biggin Hill airport

*R (Adriano) v Surrey CC* (2002) High Court on EIA and JR for waste facility

## EXAMPLES OF MAJOR DEVELOPMENT INCLUDE

*Green Hammerton New Settlement* – ongoing promotion of major new settlement for 3,000 houses in Harrogate BC area at Local Plan Examination and by Planning Application

*Tudeley Village, Kent* – ongoing promotion of new village settlement for 2,500 plus homes in Tunbridge Wells

*Burley-in-Wharfedale* – ongoing promotion of 500 Houses & School through Local Plan Examination and by Called-In Planning Application

*Bramshill House* – Grade 1 Listed Mansion and Registered Park and Garden – ongoing promotion of major proposals for restoration and regeneration with housing proposals in grounds for City & Country

*Knowls Lane, Oldham* – acted for developer in promotion of major new housing proposal in Oldham

*Bicester Village* – acted for Bicester Village in resisting proposal for adjacent retail park proposal

*Mistley* – acted for developer in promotion of intensification of planning permission for housing development granted on appeal.

*Potters Field, London* – promotion of major redevelopment of Potters Field with world-class architecture scheme approved on appeal after public inquiry

*Bicester Expansion* – promotion of housing expansion at Bicester

*Mill Hill Cemetery Redevelopment* – promoted planning permission granted on appeal

*St George's Hospital* – promotion of redevelopment of former NHS hospital site for major housing approved after public inquiry

*University of Sussex* – promoted major redevelopment / expansion of University of Sussex approved after public inquiry

*Warfield Park* – promotion of significant expansion of Park Home proposal in Bracknell Forest approved after public inquiry

*Long Hanborough, Oxfordshire* – promotion of new housing approved after public inquiry

*City & Country Sundridge Ltd v Bromley LBC* [2017] 6WLUK 850; [2017] PAD 35 –for City & Country on scheme for redevelopment of Grade 1 Listed Sundridge Park and costs award against Bromley LBC

## MAJOR INFRASTRUCTURE AND COMPULSORY PURCHASE

### EXAMPLES OF PROJECTS INCLUDE:

*HS2 – Phase 1 and Phase 2A (2013-2020)* – promotion of new High Speed Railway from London to Birmingham and Fradley to Crewe by two Hybrid Acts of Parliament

*R(ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy & Drax Power Ltd [2020] EWHC 1303 (Admin) and Court of Appeal* – for Drax defending the Secretary of State’s grant of a DCO for two gas turbine energy regenerating stations at Selby.

*R(Mayor of London) v Secretary of State for Business, Energy and Industrial Strategy and Cory (2020) High Court* – acted for Secretary of State in opposing challenge to grant of DCO for new waste incinerator at Riverside Energy Park, Bexley

*United Utilities Water Ltd (Eccles Wastewater Treatment Works) Compulsory Purchase Order 2016* – promotion of first Water Industry Act CPO for UU through public inquiry (2018-2020)

*Thames Enterprise Park* – acted in relation to promotion of major redevelopment proposals for Thames Enterprise Park

*Silvertown Tunnel DCO (2018-2019)* – acting for affected landowners for major redevelopment

*Manston Airport DCO – (2019)* – acting for owners of Manston Airport in response to Manston Airport DCO

*Tilbury 2* – acted for Thurrock Council on application of Planning Act 2008/DCO

*Coventry Airport* – acted for TUI and Coventry Airport in promotion of Interim Passenger Facility for airport services

*M1/M6 Junction 19 Improvement CPO* – acted for Highways Agency on promotion of Orders and CPO for M1/M6 Junction 18 works

*London Lydd Airport* – acted for London Lydd Airport in promotion of runway expansion and improvements to Airport

*Feeney v (1) Secretary of State for Transport (2) Chiltern Railway Co Ltd (3) Natural England* – acting for Secretary of State on approval of reopened railway way line via Oxford

*Hardy & Maile v United Kingdom* – acted for authority in respect of grants of consent for LNG Terminals at Milford Haven and associated human rights issues (see [2012] ECHR 261)

*A47 Thorney Bypass CPO* – acted for Highways Agency on promotion of Orders for A47 Thorney Bypass

*Bracknell Town Centre Regeneration CPO* – acted on promotion of Bracknell Town Centre Regeneration

*R(Samuel Smith Old Brewery Tadcaster) v National Grid Electricity Transmission Plc [2012] EWHC 46 (Admin)* – wayleaves for National Grid pylons under Electricity Act and Wayleave Inquiry under Electricity Act

*Star Energy Weald Basin Ltd & Anor v Bocado SA [2010] UKSC 35* – intervening in Supreme Court on correct approach to compensation for pipelines for extraction of oil

*Old England Properties Ltd v Telford and Wrekin Council [2000] EW Lands Acq* – Lands Tribunal approach to purchase notice compensation



## PUBLIC & ADMINISTRATIVE LAW

### COURT CASES (INCLUDING LOCAL GOVERNMENT) INCLUDE:

*R(Medical Defence Union) v Secretary of State for Health & Others* (2020) – Administrative Court. Acting for the Medical Defence Union in a challenge to the Government’s approach to indemnity for NHS GP liabilities.

*R(Crest Nicholson & Others) v West Berkshire District Council, AWE Plc, Ministry of Defence and others* (2020) – Administrative Court. Acting for AWE plc in response to challenge to the Detailed Emergency Planning Zone at Burghfield Atomic Weapons Establishment, a site of national strategic importance for the UK’s nuclear deterrent, under the Radiation (Emergency Preparedness and Public Information) Regulations 2019.

*BF(Eritrea) v Sec of State for Home Department* [2019] EWCA Civ 872; [2020] 4 WLR 38 – Approach to Age Assessment Policy of unaccompanied asylum-seeking children for the purposes of immigration. On appeal to the Supreme Court to be heard in March 2021.

*R(Hallam and Nealon) v Secretary of State for Justice* [2019] UKSC 2; [2020] AC 279 – Appeared in the Supreme Court, Court of Appeal and High Court on the compatibility of the provisions for compensation for miscarriages of justice in s.133 of Criminal Justice Act 1988 with Article 6 of the ECHR.

*R (Scunthorpe United Football Club Ltd) v Greater Lincolnshire Local Enterprise Partnership* [2018] EWHC 3351 (Admin) – appeared for Local Enterprise Partnership in defending decision on grant of funding for local road infrastructure.

*R(Medical Justice and others) v Secretary of State for Justice* [2017] 4 WLR 198; [2017] EWHC 2461 (Admin) – Acted for Secretary of State for Justice on challenge to Adults at Risk Policy for immigration detention purposes.

*R(Ali) v Secretary of State for the Home Department* [2017] EWCA Civ 138; [2017] 1 WLR 2894 – acted for Secretary of State in Court of Appeal on challenge to detention of unaccompanied children and age assessment.

*Secretary of State for Home Department v Restivo* [2016] UKUT 449 (IAC); [2017] Imm AR 188 – Challenge to repatriation of Italian convicted murderer to Italy and compliance with Immigration (EEA) Regulations 2006 and Council Framework Decision 2008/909.

*R(Secretary of State for Home Department) v Upper Tribunal & Restivo* [2015] EWHC 4182 (Admin) – appeared for Secretary of State on successful *Cart v Upper Tribunal* challenge to Upper Tribunal’s decision to challenge a decision of the UT on repatriation of a foreign prisoner.

*R(Clark) v Secretary of State for Justice* [2015] EWHC 2383 (Admin). Challenge to refusal of compensation for miscarriage of justice under s.133 of the Criminal Justice Act in relation to charges of conspiracy to supply class B drugs and perverting course of justice.

*R(Andukwa) v Secretary of State for Justice* [2015] ACD 54; [2014] EWHC 3988 (Admin) – Challenge to approach to compensation for miscarriage of justice arising from offence under s.31 of Immigration and Asylum Act 1999 for using false identity card.

*R(Tabbakh) v Staffordshire and West Midlands Probation Trust and Secretary of State* [2014] EWCA Civ 827; [2014] 1 WLR 4620 and [2013] EWHC 2492 (Admin) – Challenge to policy for deciding on the conditions to be included in an offender’s release on licence from prison.

*R(Ali, Tunbridge, Dennis, George and Lawless) v Secretary of State for Justice* [2014] EWCA Civ 194; [2014] 1 WLR 3202 and [2013] EWHC 72 (Admin) – appeared in Court of Appeal and Divisional Court on 5 separate challenges

to refusal of compensation for claimed miscarriages of justice on the quashing of various criminal offences in light of the decision in *R(Adams) v Secretary of State for Justice*.

*Rudewicz, R (on the application of) v Secretary of State for Justice & Ors* [2012] EWCA Civ 499 – in Court of Appeal and High Court on approach to burial licences under s.25 Burial Act 1857.

*McGetrick, R (on the application of) v The Parole Board & Anor* [2012] EWHC 882 – challenge to approach of Parole Board and use of “untried material”.

*R(Nicklinson) v Secretary of State for Justice* [2015] AC 657; [2014] UKSC 38 – in Supreme Court landmark decision upholding prohibition of assisted suicide under the Suicide Act 1961 for those seeking a right to die in light of Article 8 of the ECHR, following appearance in Court of Appeal and Divisional Court [2012] EWHC 2381 and [2012] EWHC 304(QB).

*R(Knowles) v Secretary of State for Work and Pensions* [2013] EWHC 19 (Admin) – approach to Housing Benefit scheme for Romani Gypsies and claim of Article 14 discrimination.

*British Telecommunications Plc, R (on the application of) v BPI (British Recorded Music Industry) Ltd & Ors* [2012] EWCA Civ 232 and [2011] EWHC 1021 (Admin) for BPI in Court of Appeal and High Court on copyright provisions in Digital Economy Act 2010.

*Adams, R (on the application of) v Secretary of State for Justice* [2011] UKSC 18 – in Supreme Court, Court of Appeal and Divisional Court on correct approach to compensation for miscarriages of justice under s.133 of Criminal Justice Act 1988.

*aR(BB) v Special Immigration Appeals Commission* [2011] EWHC 336 (Admin) – for Sec of State in Divisional Court on approach to bail proceedings for those liable to deportation on grounds of national security.

*R(GC & C) v Commissioner of Police of the Metropolis* [2010] EWHC 2225 (Admin) for Sec of State on retention of DNA and fingerprints by police and Article 8 of ECHR.

*KB, R (on the application of) v Secretary of State for Justice* [2010] EWHC 15 (Admin) – on use of discipline incident reports in Young Offender Institutions and Article 8 of ECHR.

*AR v Secretary of State for the Home Department* [2009] EWHC 1736 (Admin) – approach to modifications of control orders under Prevention of Terrorism Act 2005.

*Secretary of State for the Home Department v AR* [2008] EWHC 3164 (Admin) – challenge to control order imposed under Prevention of Terrorism Act.

*Salami, R (on the application of) v Parole Board* [2009] EWHC 2251 (Admin) – challenge to change to early release provisions of prisoners and Article 6 ECHR.

*A v London Borough of Croydon* [2009] EWHC 939 (Admin) – approach to age assessments in immigration context.

*J, R (on the application of) v Secretary of State for the Home Department* [2009] EWHC 705 (Admin) – certification of asylum and human rights claim under s.96 of NIAA 2002.

*Police Federation of England and Wales & Ors, R (on the application of) v The Secretary for the Home Department & Anor* [2009] EWHC 488 (Admin) – challenge to tables of lump sum commutation factors for Police Pensions.

*R(Khan) v Secretary of State for Home Department* [2008] EWHC 600 (Admin) – certification of asylum claim under s.96(2) of NIAA 2002

*CP v OFSTED* [2005] EWCST 543 (EY) – for OFSTED on appeal under Children Act 1989 childminder registration

*R(Mersey Care NHS Trust) v Mental Health Review Tribunal* [2003] EWHC 1182 (Admin) – challenge to discharge of patient held in conditions of high security

## HUMAN RIGHTS & CIVIL LIBERTIES

### COURT CASES INCLUDE:

*R(Lamb) v Secretary of State for Justice* [2019] EWHC 3606 (Admin) – Challenge to prohibition of assisted suicide under Article 8 and Article 14 of the ECHR

*R(Hallam and Nealon) v Secretary of State for Justice* [2019] UKSC 2; [2020] AC 279 – Appeared in the Supreme Court, Court of Appeal and High Court on the compatibility of the provisions for compensation for miscarriages of justice in s.133 of Criminal Justice Act 1988 with Article 6 of the ECHR

*R(Newby) v Secretary of State for Justice* [2019] EWHC 3118 (Admin) appeared for the Secretary of State in Divisional Court on challenge to prohibition of assisted suicide.

*R(T) v Secretary of State for Justice* [2018] EWHC 2615 (Admin); [2018] ACR 134 and [2017] EWHC 3181 (Admin) – Challenge to the law relating to assisted suicide.

*R(Conway) v Secretary of State for Justice* [2020] QB 1; [2017]; [2018] EWCA Civ 1431; [2018] EWCA Civ 16; [2017] EWCA Civ 275; [2017] EWHC 640 (Admin)– appeared for Secretary of State in Court of Appeal and Divisional Court on challenge to the law prohibiting assisted suicide with rights under Article 8 of the ECHR.

*Abedin v United Kingdom App No. 54026/16* (2019) – European Court of Human Rights. Acted for UK on challenge under Articles 5 and 7 to ECHR in relation to licence provisions.

*R(Scarfe and others) v HMP Woodhill and Another* [2017] EWHC 1194 (Admin); [2017] ACD 92 – appeared for the Defendants in Divisional Court relation on challenge under Article 2 in respect of suicides in HMP Woodhill

*R(Hallam and Nealon) v Secretary of State for Justice* [2016] EWCA Civ 355; [2017] QB 571 – appeared for the Secretary of State on challenge to legislation on compensation for miscarriages of justice under s.133 of the Criminal Justice Act 1988

*R(Bristow) v Secretary of State for Justice* [2015] EWCA Civ 1170 and [2013] EWHC 3094 (Admin) – appeared for the Secretary of State in Court of Appeal and High Court on the calculation of sentencing for prisoners and compatibility with Article 5 and Article 14 of the ECHR

*R(Sneddon) v Secretary of State for Justice* [2015] EWHC 3190 (Admin); [2016] WLR 1361 – appeared for the Secretary of State in Divisional Court on principles of compensation for miscarriage of justice under s.133 of the Criminal Justice Act 1988

*R(Nealon) v Secretary of State for Justice* [2015] EWHC 1565 (Admin) – challenge to approach to principles of compensation for miscarriages of justice under s.133 of Criminal Justice Act 1988.

*R(Nicklinson) v Secretary of State for Justice* [2015] AC 657; [2014] UKSC 38 appeared for Secretary of State in this landmark decision upholding prohibition of assisted suicide under the Suicide Act 1961 for those seeking a right to die in light of Article 8 of the ECHR.

*Hodkin v Registrar General for Births* [2014] AC 610; [2014] 2 WLR 23; [2013] UKSC 77; [2012] EWHC 3635 (Admin) – in Supreme Court and Divisional Court for Registrar on challenge to approach to permitting marriage for members of Church of Scientology and compatibility with Article 9 of ECHR.

*Allen v United Kingdom* [2013] ECHR 678 – European Court of Human Rights (Grand Chamber) appeared for UK Government on approach to compensation for miscarriages of justice and Article 6.

*R(Cossey) v Secretary of State for Justice* [2013] EWHC 3029 (Admin) – for Sec of State on claim of discrimination / breach of Article 14 for indeterminate sentence prisoner.

*R (Children's Rights Alliance for England and Wales) v Secretary of State for Justice* [2013] EWCA Civ 34 – appeared for Sec of State in Court of Appeal and High Court [2012] EWHC 8 on challenge to approach to restraint of children in custodial context.

*Hardy & Maile v United Kingdom* [2012] ECHR 261 – acting for authority on challenge to LNG Terminals at Milford Haven in relation to hazardous substances consents

*R (Barry George) v Secretary of State for Justice* Oct 2012, Human rights & civil liberties – challenge to approach to compensation for miscarriage of justice

*Equality and Human Rights Commission v Prime Minister & Ors* [2011] EWHC 2401 (Admin) – judicial review of policy approach to guidance on treatment of detainees.

*Adams, R (on the application of) v Secretary of State for Justice* [2011] UKSC 18 – in Supreme Court, Court of Appeal and Divisional Court on correct approach to compensation for miscarriages of justice under s.133 of Criminal Justice Act 1988.

*Hamza v Secretary of State for the Home Department* [2010] UKSIAC 23/2005 – for Secretary of State on deprivation of citizenship for Abu Hamza under s.40 of British Nationality Act 1981.

*Reprive (R on the application of) v Prime Minister* (2010) Jun 2010, Human rights & civil liberties, Judicial review

*R (Webb) v Secretary of State for Justice* [2010] EWCA Civ 1115 and [2010] EWHC 1174 – in Court of Appeal and Divisional Court on correct approach to early release provisions for prisoners.

*Robinson (R on the application) v Secretary of State for Justice* [2010] EWCA Civ 848 in Court of Appeal and Divisional Court on whether change to early release provision administration or execution of sentence and Article 6 ECHR.

*U, R (on the application of) v Special Immigration Appeals Commission & Anor* [2010] EWHC 813 (Admin) – in Divisional Court on SIAC bail requirements and use of open and closed materials in national security case.

*Orobator v HMP Holloway & Anor* [2010] EWHC 58 (Admin) – in Divisional Court on challenge regarding repatriation of British Citizen sentenced to life in Laos for drug smuggling offence and Articles 5 and 6 of ECHR

*SSHD v AR* Dec 2008, Immigration & asylum law, Human rights & civil liberties

*S and Marper v The United Kingdom* – 30562/04 [2008] ECHR 1581 – appeared in European Court of Human Rights on challenge to retention of DNA and fingerprints by police and Article 8 ECHR

*R (S and Marper) v Chief Constable of S. Yorks & Home Secretary* [2004] UKHL; and [2002] EWCA Civ 1275 –

challenge to retention of DNA and fingerprints by police and Article 8

*R (X) v Chief Constable of West Midlands & Secretary of State for Home Department* [2004] EWCA Civ 1068 in Court of Appeal and High Court on disclosure of police information on disclosure certificates and Art 8

*Chief Constable of West Yorkshire Police v A & Secretary of State for Trade & Industry (intervening)* Mar 2004, Human rights & civil liberties, Discrimination law, Dismissal law, Confidentiality and privacy

*Goodwin v United Kingdom* [2002] ECHR 588 – European Court of Human Rights challenge under Art 8 to transgender rights of individuals for purposes of discrimination and social security

*I v United Kingdom* [2002] ECHR 592 – European Court of Human Rights challenge under Article 8, 12 and 14 for transgender recognition

## FINANCIAL SERVICES & COMMERCIAL REGULATION

### COURT CASES INCLUDE:

*R(Quilter Financial Services Ltd) v FOS* [2020] EWHC Admin – Resisted 3 challenges to decisions of Ombudsman to uphold complaints regarding agents/appointed representative

*R(Critchley) v Financial Ombudsman Service & Bank of Scotland* [2019] EWHC 3036 (Admin) – appeared for FOS on challenge to credit card PPI determination

*R(Berkeley Burke SIPP Administration Ltd) v Financial Ombudsman Service* [2018] EWHC 3351; [2019] Bus LR (Admin) – appeared for FOS defending determination to hold SIPP Administrator liable for losses for SIPP investment

*Berkeley Burke SIPP LLP v Wayne Charlton and FOS* [2017] EWHC 2396 (Comm) – appeared for FOS on question of whether Ombudsman's determination an arbitration.

*Wolverhampton City Council v EMS Ltd* (2017) High Court – acted for WCC on contractual dispute regarding waste contract.

*R(Aviva Life & Pensions (UK) Ltd) v Financial Ombudsman Service* [2017] EWHC 352 (Admin); [2017] ACD 53 – appeared for FOS on challenge to interpretation of life insurance policies

*R(Full Circle Asset Management Ltd v Financial Ombudsman Service* [2017] EWHC 323 (Admin) – appeared for FOS on challenge to complaint about operation of portfolio discretionary investment service.

*R(Chancery (UK) LLP) v Financial Ombudsman Service* [2015] EWHC 407 (Admin) – appeared for FOS in High Court on determination of FOS's jurisdiction over complaint concerning investment in tax avoidance and collective investment film production scheme

*Plevin v Paragon Personal Finance Ltd* [2014] UKSC 61; [2014] 1 WLR 4222 and [2013] EWCA Civ 1658 – appeared for successful consumer in Supreme Court and Court of Appeal on challenge to unfair relationship under section 140A of the Consumer Credit Act in respect of the sale of PPI

*R(Bluefin Insurance Ltd) v Financial Ombudsman Service* [2014] EWHC 3413 (Admin) appeared for FOS on approach to interpretation of consumers for the purposes of the DISP Rules under the Financial Services and Markets Act 2000

*R (on the application of London Capital Group) (Claimant) v Financial Ombudsman Service Ltd (Defendant) & (1)*

*Jeremy Shrubbs (2) Financial Conduct Authority* [2013] EWHC 2425 (Admin) – for FOS in High Court on complaint about Forex Trading Account

*Clark v In Focus Asset Management & Tax Solutions* [2014] EWCA Civ 118; [2014] 1 WLR 2502 – appeared for FOS in Court of Appeal on issues concerning finality and res judicata and ability to claim where award had been made by Ombudsman

*R(Calland) v Financial Ombudsman Service* [2013] EWHC 1327 – appeared for FOS resisting challenge to Ombudsman determination concerning personal pension

*British Telecommunications Plc, R (on the application of) v BPI (British Recorded Music Industry) Ltd & Ors* [2012] EWCA Civ 232 and [2011] EWHC 1021 (Admin) for BPI in Court of Appeal and High Court on copyright provisions in Digital Economy Act 2010

*Conlon v Black Horse* [2012] EWHC B25 (Admin) – PPI and s.140 Consumer Credit Act “unfair relationship”

*Barnes v Black Horse Ltd* [2012] EWHC 1950 (QB) – PPI and s.140 Consumer Credit Act “unfair relationship”

*R(British Bankers Association) v Financial Services Authority and Financial Ombudsman Service* [2011] EWHC 999 (Admin) – for FOS on challenge by BBA to approach to determining PPI complaints

*Heather Moor & Edgecomb Ltd v the United Kingdom* 14 June 2011

*Cook & Anor, R (on the application of) v Financial Ombudsman Service*  
Jan 2009, Judicial review, Financial services

*Heather Moor & Edgecomb Ltd, R (on the application of) v Financial Ombudsman Service & Anor* [2009] EWHC 2701(Admin) – challenge to jurisdiction of Ombudsman under Financial Services and Markets Act 2000

*R(Bamber) v Financial Ombudsman Service* [2009] EWCA Civ 593 – in Court of Appeal and High Court for FOS on challenge to Ombudsman jurisdiction over FIMBRA regulated firm

*R(Cook) v Financial Ombudsman Service* [2009] EWHC 426 (Admin) – challenge to Ombudsman decision on complaint about pension advice

*R(Heather Moor & Edgecomb) v Financial Ombudsman Service* [2008] EWCA Civ 642 – interpretation of s.228 of FSMA 2000 and Ombudsman’s jurisdiction to determine complaint by reference to fairness and reasonableness.

*R(Bruce) v Financial Ombudsman Service* [2007] EWHC 1646 (Admin) on challenge to Ombudsman’s decision on mis-selling of personal pension

*Bunney v Burns Anderson Plc & Anor* [2007] EWHC 1240 (Ch) [2007] 4 All ER 246 – limit of FOS powers to make awards under Financial Services and Markets Act 2000

*IFG Financial Services Ltd (R on the application of) v Financial Ombudsman Service* [2005] EWHC 1153(Admin) – landmark decision on jurisdiction of Ombudsman under FSMA 2000

*Habib Bank Ltd v Liverpool Freeport Electronics Ltd* [2004] EWCA Civ 1062 – Court of Appeal on interpretation of bank guarantee documentation

*R(Norwich & Peterborough Building Society) v Financial Ombudsman Service* [2002] EWHC 2379 (Admin) – challenge to approach to Banking Code by FOS



*R(Mooyer) v PIA Ombudsman Bureau* [2001] EWHC Admin 247 – question of whether PIAOB susceptible to judicial review

*R(Royal Sun Alliance Life & Pensions) v PIAOB* [2000] EWHC Admin 379 – interpretation of personal retirement policy

*R(Albatros Warehousing BV) v London Metal Exchange* [2000] EWHC 314 – challenge by Albatros to approach to LME disciplinary procedures

*Smith, R (on the application of) v Land Registry (Peterborough)* [2010] EWCA Civ 200 – in Court of Appeal and High Court on approach to adverse possession of a highway and the meaning of “highway”

*Heffernan, R (on the application of) v Rent Service* [2009] EWHC 3539 (Admin) – on approach to calculation of Housing Benefit and local reference rents for social security purposes.

*R(Heffernan) v Rent Service* [2008] UKHL 58, [2008] 1 WLR 1702; [2007] EWCA Civ 544 – in House of Lords and Court of Appeal on correct approach to determining Local Reference Rents for the purposes of housing benefit.

*Home Office v Information Commissioner* [2008] UKIT EA 2008/0027 on Information Tribunal approach to Freedom of Information and data protection.

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## RECOMMENDATIONS

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## CHAMBERS & PARTNERS

### RANKED SILK IN ADMINISTRATIVE AND PUBLIC LAW

*“He’s very cerebral and his advocacy style is understated but measured, and judges really listen to him” (2020)*

*“A very methodical and meticulous advocate who has a lovely style” (2020)*

*“Top of the tree intellectually and in dealing with clients; his work product is consistently at a very high standard indeed” (2020)*

*Previous years’ recommendations in Administrative and Public Law:*

*“A barrister of very high capability, who has a very broad base of expertise and produces creative arguments.” “Very thoughtful and client-focused. His advice is authoritative.”*

*“He’s an incredible talent with an astounding work rate and formidable brain.”*

*“He’s sensible, commercial and pragmatic. I rate him extremely highly.”*

*“He has an incredible grasp of the law and the issues.” “He’s a very good lawyer and a smooth advocate.”*

*“He is in command of all the legal intricacies.” “He is tenacious, well prepared, and very persistent in the face of serious challenges from the court.”*

*“Very thorough, and a very good written advocate who also adopts a lovely style when on his feet.”*

*“Extremely good” “a measured performer.”*



*"A superb lawyer."*

*"Unbelievably smooth advocate."*

#### RANKED SILK IN PLANNING

*"A real tactician who is able to steer a clear course through the most complex disputes. He is also a ruthless cross-examiner" (2020)*

*"He has an excellent style and is tenacious and easy to deal with" (2020)*

*Previous years' recommendations in Planning:*

*"An outstanding lawyer, who is a pleasure to work with. If you've got a seemingly unwinnable case he's the only one that's going to win it – and if you've got a marginal case he will ensure that it will become a shoo-in."*

*"An incredibly talented barrister with a modest but highly effective style." "An excellent advocate who subtly gets to where he wants to be when examining witnesses."*

*"He is clever, charming, persuasive, and good both at opinion work and on his feet. He is easily on a par with most of the planning silks now practising."*

*"Awestruck by the natural flair he displays when on his feet" and "phenomenal... an absolutely outstanding barrister."*

#### RANKED SILK IN ENVIRONMENT

*"Amazing in the way he calmly absorbs huge amounts of evidence and information and then presents a case that is both compelling and coherent" (2020)*

*Previous years' recommendations in Environment:*

*"A measured, intelligent and thoughtful barrister with a good brain." (2015)*

*"A tenacious lawyer who can produce fireworks in the courtroom." (2014)*

*"His style is user-friendly and accessible, and his overall offer is top-drawer." (2013)*

*"Excellent and very persuasive." (2013)*

*"An excellent choice as he is astute, effective and superb with clients." (2012)*

*"Fine option for European environmental law and EIA issues." (2011)*

#### RANKED SILK IN HUMAN RIGHTS/CIVIL LIBERTIES

*"... extremely clever. He's a really excellent advocate and comes across in an understated way is no less powerful for it" (2020)*

*Previous years' recommendations in Human Rights:*

*"He's smooth in a way that judges like, and he makes complicated propositions seem simple."*

*"He is very thoughtful, reliable, helpful and completely dedicated to providing us with the assistance we're looking for in each case." "He's very good, both on his feet and in his writing."*

*"He is incredibly bright and a very measured advocate. He's completely on the ball."*

*"Wise and incisive in his advice."*

*"A lawyer of considerable distinction."*

#### RANKED SILK IN LOCAL GOVERNMENT

*"He has a razor-sharp mind and is a very strategic thinker, as well as a very persuasive advocate" (2020)*

*"He's absolutely brilliant and one of the nicest people you could ever meet" (2020)*

*Previous years' recommendations in Local Government:*

*"A tenacious guy, but not unnecessarily aggressive. He's measured and stays with things, but not to the extent that he loses the tribunal."*

*"A smooth and polished advocate, who is very effective."*

*"He is very cerebral and very bright."*

*"One of the brightest people at the Bar."*

*"A higher-flyer... one to keep an eye on, he's going to go all the way" (2010)*

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## LEGAL 500

**RANKED AS LEADING SILK IN ADMINISTRATIVE AND PUBLIC LAW**

*"A highly experienced public lawyer. He is very intelligent, knows the area very well and is a fine advocate" (2020)*

*Previous years' recommendations in Administrative and Public Law:*

*"An exceptionally able barrister"*

*"Extremely clever and a great advocate"*

*"An excellent team player"*

**RANKED AS LEADING SILK (TIER 1) IN PLANNING**

*"Special note should be made of the 'text book' way that James conducted his cross examination of the objector's witnesses and the way that he extracted concession after concession leaving the objector with no alternative but to withdraw" (2020)*

*"He has a calm and pleasant manner in court but is ruthlessly effective in cross-examination" (2020)*

*Previous years' recommendations in Planning and Environment:*

*"Calm under pressure with an ability to get to the heart of a dispute and come up with a solution."*

**RANKED AS LEADING SILK IN CIVIL LIBERTIES AND HUMAN RIGHTS:**

*"Super-bright, always two steps ahead of everyone else in the courtroom. ..." (2020)*

*"One of the best lawyers in his field."*

*"A fabulous advocate – extremely impressive to watch."*

**RANKED AS LEADING SILK IN FINANCIAL SERVICES REGULATION**

*"He has a deep knowledge of Financial Services law which he deploys to great effect, and is a tenacious and technically proficient advocate." (2020)*

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## APPOINTMENTS

Appointed Deputy High Court Judge – September 2018

Appointed Queen's Counsel – 2013

Attorney General's Counsel to the Crown 'A' Panel – appointed March 2008

Attorney General's Counsel to the Crown 'B' Panel – appointed March 2004

Attorney General's Counsel to the Crown 'C' Panel – appointed March 2001

Welsh Assembly Government Panel from 2009 – 2012

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## MEMBERSHIPS

- COMBAR
  - ALBA
  - PEBA
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## QUALIFICATIONS

Winchester College

St Peter's College, Oxford University BA (Hons) (1st Class)

Diploma in Law College of Law (Commendation) (1994-5)

BVC Inns of Court School of Law (Outstanding) (1995-6)

### SCHOLARSHIPS & PRIZES

1991-3 Steven Latner Scholarship, St Peter's College Oxford

1995 Harmsworth Major Entrance Exhibition to Middle Temple

1996 Baron Dr VerHeyden de Lancey Award for highest Middle Templar BVC Result

1999 Pegasus Scholar to Mallesons Stephen Jacques, Sydney, Australia

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