



David Mitchell

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Practice areas

Media and sport

Employment

Public & regulatory



David's practice spans media, employment, commercial and public law. His advocacy is split between trial and appellate work. He is appointed to the Attorney General's A panel of junior civil counsel and the Equality and Human Rights Council's B panel. Recommended as a leading individual in Chambers UK and the Legal 500, Chambers UK 2017 notes that David "has a wide employment law practice that is bolstered by his knowledge of media and public law. Clients praise his impressive knowledge and his dedication to his clients and their cases."

Media & sport



Defamation, privacy, malicious falsehood, breach of confidence, freedom of information and data protection practice (often with an employment or public law element). Recent work includes obtaining an ex parte privacy injunction on behalf of a prominent businessman, advising the Attorney General regarding a contra mundum injunction for lifelong anonymity in the case of A&B (arising from the 2009 Edlington attacks) and advising on the enforceability of s.40 Crime & Courts Act 2014 concerning costs awards against media organisations post-Leveson.

Dhir v Saddler [2018] 4 W.L.R. 1, Times Law Report, 2 January 2018: Successful for claimant following 5-day slander trial. Only successful slander trial in 2017 and leading authority on serious harm in the context of slander. Slander comprised the defendant's announcement at a meeting of the Seventh Day Adventist Church that the claimant had threatened to slit her throat (actionable per se as the words imputed the commission of the indictable offence of making a threat to kill). Damages and aggravated damages of £35,000.

Daryanani v Ramnani [2017] EWHC 183 (QB): for claimant in action for slander and libel. On defendant's application to strike out Sir David Eady gave consideration both to the serious harm threshold and its pleading requirements.

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Lee Johnson v Ministry of Justice [2016] EWHC 177 (QB): for MoJ defending libel suggesting claimant was subject to a General Civil Restraint Order when in fact he was subject to a Limited CRO. Claimant since the subject of an All Proceedings Order (s. 42 SCA 1981) obtained by the Attorney General in the Divisional Court in [2017] EWHC 979 (Admin).

KLA v Chief Constable of Surrey and News Group Newspapers: for claimant in privacy, misfeasance in public office and HRA claims against police and privacy and harassment claims against the newspaper concerning sale of the victim of crime's private information to the Sun newspaper.

Romanova v Sloutsker: for the appellant Russian journalist on behalf of Media Law Defence Initiative in her challenge to Court of Appeal against jurisdiction judgment ([2015] EWHC 545 (QB)) permitting the libel claim of a Russian oligarch to be brought in the English courts.

Ministry of Defence v Rusty Firmin & Bloomsbury Publishing: Memoirs of SAS soldier withdrawn from sale on behalf of Claimant (confidence, DPA and copyright).

Associated Newspapers Ltd v Duncan Bannatyne [2015] EWHC 3467 (Ch): breach of confidence and privacy – advising former wife of defendant.

Yalland v O'Connor: successful set aside of libel judgment for founder of Fathers4Justice.

Dr Haitham Al-Haddad v Times Newspapers Limited: successful libel claim for Islamic scholar.

McAlpine v Bercow [2013] EWHC 1342 (QB): for defendant in twitter libel claim (led by William McCormick QC)

Employment



Full range of statutory claims before the ET and common law actions in the High Court. Recent / forthcoming cases in the Court of Appeal include Agarwal v Cardiff University [2017] I.R.L.R. 600 (jurisdiction of the ET to construe contractual terms for the purpose of unlawful deduction of wages claims) and Amissah & Ors v London Underground Ltd [2017] I.C.R. 581 (compensation under the Agency Worker Regulations 2010). Currently instructed before the EAT on behalf of the Equality and Human Rights Commission in a challenge concerning time limits in the context of pregnancy and maternity discrimination. In terms of ET work, recently succeeded in obtaining re-engagement order in excess of £450k following finding of unfair dismissal, currently under appeal (Kelly v PGA European Tour). Recently advised ACAS concerning the jurisdiction of the Central Arbitration Committee to hear a complaint brought against it by the PCS trade union. In the civil courts, currently instructed by the Equality and Human Rights Commission in a claim of race discrimination against the Open University regarding its policy of excluding Cuban students (since revoked) pursuant to US trade sanctions.

South Yorkshire Fire & Rescue Service v Mansell UKEAT/0151/17/DM: availability of injury to feelings awards in working time detriments claims (Soole J.)

Kelly v PGA European Tour UKEAT/0157/17/JOJ: appeal against dismissal of age discrimination claim (Choudhury J.)

Tree v South East Coastal Ambulance Service NHS Foundation Trust UKEAT/0043/17/LA: successful for employee appellant regarding correct approach of ET to making deposit orders in discrimination claims.

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Agarwal v Cardiff University & Cardiff Health Board [2017] I.C.R. 967; [2017] I.R.L.R. 600: successful for University in appeal concerning jurisdiction of ET to determine employment terms of clinical academics.

Amissah & Ors v London Underground Ltd [2017] I.C.R. 581; [2017] I.R.L.R. 318: successful for group of agency workers concerning assessment of compensation under Agency Worker Regulations.

Robert Newbound v Thames Water Utilities Ltd [2015] I.R.L.R. 734: successful in Court of Appeal on behalf of unfairly dismissed employee in case concerning apparent bias of EAT.

GW v Ministry of Justice (Central London ET): for claimant in national security proceedings under rule 94 and schedule 2.

Ramphal v Department for Transport [2015] I.R.L.R. 985, EAT: for respondent in appeal concerning unfair dismissal / role of HR in decision to dismiss. Whilst appellant succeeded before EAT case settled upon the respondent's further appeal to Court of Appeal.

Gale & Ors v Mid & West Wales Fire and Rescue Service UKEAT/0365/14: successful defence of group action for detriments under WTR 1998. Previously acted in leading authority concerning WTR detriments – Arriva v Nicolaou [2012] I.C.R. 510, EAT.

Jean-Charles v Department for Work and Pensions UKEAT/0905/14: successful cross-appeal for DWP who refused to reinstate ex-employee until she repaid monies owed to employer (ss.113 & 117 ERA).

Public and regulatory



Predominantly defendant judicial review practice. Recently acted as amicus curia in extradition appeal before the Divisional Court (Auzins v Latvia [2017] 1 W.L.R. 2981) and successful in joined appeals before the Court of Appeal concerning article 8 claims of foreign criminals resisting deportation (NE-A (Nigeria) & HM (Uganda) v Secretary of State for the Home Department [2017] EWCA Civ 239, Imm. A.R. 1077). Regular conduct of national security proceedings in SIAC.

R (Rahman & Ors) v Secretary of State for the Home Department [2018] EWCA Civ 1571: for respondent in Court of Appeal in costs argument concerning judicial reviews stayed behind Ahsan v SSHD [2017] EWCA Civ 2009 which will now return to lower courts for factual determination of whether applicants cheated in their English language TOEIC tests.

R (Fire Brigades Union) v South Yorkshire Fire and Rescue Authority [2018] EWHC 1229 (Admin): for defendant in challenge under Working Time Regulations 1998 against firefighters' shift pattern.

R (Talpada) v Secretary of State for the Home Department [2018] EWCA Civ 841: successful for SSHD in Court of Appeal concerning PBS challenge based on evidential flexibility and legitimate expectation.

R (MG) v Secretary of State for the Home Department [2018] EWHC 31 (Admin): successful for defendant in resisting fresh protection claim of foreign national offender (whose claim to be a victim of trafficking was lawfully rejected). Also successful defence of associated private law claim for false imprisonment concerning 25 months immigration detention (defendant entitled to find no independent evidence of torture or trafficking).

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SE (Mauritius) v Secretary of State for the Home Department [2017] EWCA Civ 2145: successful for respondent before Court of Appeal in resisting appeal concerning application of 276ADE(vi) and s.117B NIAA.

MWH v Secretary of State for the Home Department SN/57/2015: successful for SSHD before SIAC (Singh J) in resisting naturalisation challenge by Iraqi national.

R.(Adewunmi) v Secretary of State for the Home Department [2017] EWCA Civ 1253: successful for Secretary of State before Court of Appeal in joint appeals concerning rejection of Tier 4 (General) Student application and rejection / certification of human rights claim.

NE-A (Nigeria) & HM (Uganda) v Secretary of State for the Home Department [2017] EWCA Civ 239, Imm. A.R. 1077: successful in Court of Appeal on behalf of Secretary of State in joined appeals concerning article 8 claims of foreign criminals resisting deportation.

Auzins v Latvia [2017] 1 W.L.R. 2981; [2017] A.C.D. 33: amicus curiae in extradition appeal before the Divisional Court concerning interpretation of the Extradition Act 2003 by Magistrates' Courts.

MB v Secretary of State for the Home Department SN/47/2015: successful defence of refusal of British citizenship to Algerian national based on membership of the GIA, a proscribed organisation under the Terrorism Act 2000.

R (Soner Kotuk) v ECO (Warsaw) JR/15777/2014 (Green J): successful for respondent before UT in challenge concerning settlement rights of family members of Turkish businesspersons under the "standstill clause" at Article 41(1) of the Ankara Agreement (ECAA) Additional Protocol. Under appeal to Court of Appeal.

Earthworm v Department for Business, Energy & Industrial Strategy: advising Claimant regarding judicial review of amendments to the Renewable Heat Incentive Regulations.

GSM London v Secretary of State for the Home Department: interim injunction for claimant college preventing deportation of Tier 4 sponsored foreign students.

Paul Henke v UKIP: Party's suspension of former Chairman of UKIP in Scotland declared null and void and in breach of rules of membership. Currently instructed in another claim against UKIP on behalf of an excluded member.

"Report of the Morecambe Bay Investigation": Adviser to Dr Bill Kirkup CBE who reported on maternity and neonatal services at Morecambe Bay Hospitals.

"Review into the disclosure handling in the case of R v Mouncher": Adviser to Her Majesty's Chief Inspector of the CPS, appointed by the DPP to investigate conduct of the prosecution case in the collapsed trial of R v Mouncher (arising from the murder of Lynette White) amid allegations of police corruption.

Memberships

Employment Law Bar Association
Employment Lawyers' Association
Discrimination Law Association
Administrative Law Bar Association
Bar Human Rights Committee
Index on Censorship

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Pro bono

Employment Law Appeal Advice Scheme ("ELAAS")
Mary Ward Legal Centre
Bar Pro Bono Unit

Appointments

2016: Attorney General's Junior Counsel to the Crown – A Panel
2015: Equality and Human Rights Commission – B panel
2012: Attorney General's Junior Counsel to the Crown – B panel
2009: Attorney General's Junior Counsel to the Crown – C panel Mary Ward Legal Centre
Bar Pro Bono Unit

Regulatory information

Vat number: 867 769 351
<https://www.barstandardsboard.org.uk/regulatory-requirements/the-barristers'-register/?ProfileID=61421>