



Marina Wheeler

Call: 1987

marina.wheeler@1cor.com

Primary Areas of Practice

Public law
Mental health
Care and adoption
Employment and equality
Inquests and prisons
Human rights

Profile

Marina Wheeler specialises in Public and administrative law, human rights and employment law.

Her public law and human rights work focuses on mental health, prisons, social care, armed conflict, education and privacy. Her employment work is varied but she is instructed frequently in difficult discrimination cases. She is a member of the Attorney General's A Panel of Counsel and currently undertakes a significant volume of work for government departments, local authorities and the NHS.

Work for the NHS includes advice and representation in service reconfiguration cases involving challenges to the adequacy of consultation, alleged breaches of legitimate expectation and the Public Sector Equality Duty. Marina also has considerable Inquest experience especially where the deceased has been detained or received support in the community. She recently represented the prison service in a high-profile case involving the self-inflicted death of a child in custody.

Before starting work at the Bar, she obtained a Master's Degree in EU law and worked in Brussels specialising in competition and environmental law.

Appointments

Attorney General's A Panel of Counsel – February 2010
Barrister Member of the Bar Disciplinary Tribunal 2009 - 2013

Memberships

Administrative Law Bar Association
Employment Law Bar Association
Human Rights Lawyers Association
European Circuit

Publications

“References to the European Court”, Halsbury’s Laws of England (4th Edition) Practice and Procedure, 2001

Co-author “The Civil Practitioner’s Guide to the Human Rights Act 1998”, Old Bailey Press, 1999

Co-author of “Human Rights and Judicial Review – Case studies and Context Bulletin”, Butterworths

Significant Cases

Serdar Mohammed v Ministry of Defence; Qasim v Secretary of State for Defence [2014] EWHC 1369 – challenges to the power of UK Armed Forces to detain insurgents during conflict in Afghanistan. Detention beyond 96 hours breached Article 5 of the European Convention on Human Rights. Applying the principle of act of state, tort claim based on Afghan law dismissed.

Smith and Budgen v Ministry of Justice and others UKEAT/0308/12/RN (23 January 2014) – claim alleging aspects of the civil service compensation scheme were unlawful on grounds of age discrimination

R(Enfield London Borough Council) v Barnet Clinical Commissioning Group [2013] EWHC 3496 - Judicial review of the decision to close accident and emergency department at Chase Farm Hospital from December 2013 based on alleged breach of a legitimate expectation.

R(Ealing LBC) v NHS England [2013] EWHC 3255; (2014) 135 BMLR 128 – challenge to the decision-making process involved in the adoption of proposals for change to the provision of hospital services in north-west London.

R(Save our Surgery) v Joint Committee of Primary Care Trusts [2013] EWHC 1011 – challenge to the consultation undertaken by the Safe and Sustainable programme to reconfigure the national provisions of paediatric cardiac surgical services

Williams v MOD [2013] Eq.LR 27 – challenge to the compatibility with Article 6 ECHR of the rules on the jurisdiction of Tribunals to determine discrimination complaints under the Armed Forces Act 2006.

Arlington House Limited v Torbay Integrated Care Trust [2013] EWHC 4466 QB – contractual and human rights claim brought by care home owners challenging the Health and Social Care Authority’s decision to remove elderly residents judged to be at risk of significant harm.

HM Land Registry v Benson [2012] ICR 627; [2012] IRLR 373 – challenge to early retirement and voluntary redundancy scheme operating to reduce headcount in clusters of local offices as being discriminatory on grounds of age and sex.

R (Maya Evans) v Secretary of State for Defence [2010] EWHC 1445 (Admin) representing the MOD to resist claim seeking injunction to prevent the transfer of suspected insurgents captured by UK forces in Afghanistan to the Afghan authorities due to concerns about torture.

A v East Sussex County Council and Chief Constable of Sussex Constabulary [2010] EWCA Civ 743 human rights act claim for damages arising out of the decision to remove a child from its mother due to suspected fabricated illness syndrome. Decision considered relationship between emergency protection orders (EPO's) granted under section 44 Children Act 1989 and police protection orders (PPO's) under section 46.

East Sussex CC v Stedman, Patten and News Group Newspapers Ltd [2009] EWHC 935 (Fam) representing Mrs Stedman in wardship proceedings and supporting East Sussex County Council's efforts to restrain and limit media reporting about the private and family lives of her teenage daughter and her granddaughter.

Josiah v MOJ [2009] local magistrate brought proceedings against the Ministry of Justice alleging discrimination on grounds of race – issues included jurisdiction of employment tribunals in relation to claims brought by office holders against other office holders and public bodies.

Enfield LBC v Secretary of State for Health and others [2009] EWHC 743 (Admin) judicial review proceedings challenging the re-organisation of local healthcare services.

M v Secretary of State for Justice [2009] EWHC 768 (Admin) resisting judicial review claim in relation to the Secretary of State's decision to retain a long-term post tariff-prisoner in closed conditions.

Singh [2008] EWHC 2414 (Fam) acted as a special advocate to review claims of public interest immunity made by the Metropolitan Police during contested Children Act proceedings.

Re Price [2008] represented the Prison Service and the Youth Justice Board in a 12 week inquest in relation to the death by hanging of a 16 year old in a Young Offenders' Institution.

R (Alami and Botmeh) v Parole Board and Secretary of State for Justice [2008] represented Secretary of State in Parole Board and judicial review proceedings where the principal issue was the risk assessment of long-term prisoners who denied the terrorist offences for which they were convicted.

R(G) v Nottingham City Council and Nottingham City NHS Hospitals Trust [2008] represented the Trust in a claim which challenged the legality of the local authority's Pathway Plan under the 2001 Leaving Care Regulations and the separation of a new born infant from its mother in accordance with the local authority's birth plan.

Rayner v (1) Secretary of State for Home Department (2) Mental Health Review Tribunal (3) Kent and Medway NHS Social Care Partnership Trust [2007] EWHC 1028 (Admin) resisted damages claim on behalf of Third Defendant arising out of

alleged breach of Article 5(4) in respect of delays in producing statutory reports for Mental Health Review Tribunal.

Cooper v Parole Board [2007] represented Parole Board in Article 5(4) claim in respect of Parole Board's refusal to expedite recall hearing to accommodate prisoner's deteriorating mental health.

Birmingham City Council v J [2006] acted as Advocate to the Court in care proceedings where parents sought to reopen findings in previous proceedings that the mother had intentionally injured her child.

H v H (Queen's Proctor intervening) [2006] represented the Queen's Proctor in relation to the recognition of Japanese kyoki rikon divorce under English law.

R (Bitcon) v West Allerdale Magistrates QBD Collins J 4/9/03 Judicial review of health authority's refusal to fund assessment of remand prisoner at private residential psychiatric unit.

McKellar and ors v London Borough of Hounslow QBD 28/10/03 – Application for injunction to prevent removal of elderly claimants from care home due for closure.

R (Haqq) v (1) HM Coroner for Inner West London (2) Alfia Sultana Haqq [2003] Resisting challenge to Coroner's refusal to release body of Muslim deceased to wife in face of competing claim by second wife – declaration obtained directing Coroner to whom body should be released.

Public Inquiry into the Identification of Victims following Major Transport Accidents (Inquiry Report, Lord Justice Clarke 23.3.2001) represented Westminster City Council in non-statutory inquiry into methods of identifying victims of Marchioness riverboat disaster.

T-192/99 Dunnett, Hackett and Clavert v European Investment Bank 6/3/01 – Court of First Instance (CFI) staff case – EIB abandoning the special conversion rate for staff on the introduction of the Euro – breach of employment contract.