

Ben Jaffey KC

“Ben Jaffey is encyclopedic on the law and the processes. He understands them and is fantastic to work with. He is crisp and gets to the point in his advocacy.”

– CHAMBERS AND PARTNERS, 2023, 2023

Year of call: **1999**
Appointed to silk: **2017**
Degree: **MA Hons (Cantab)**



Ben Jaffey is a silk with a wide-ranging Claimant and Defendant public law, financial services and regulatory law practice and great experience of complex, novel and high-profile litigation. He is ranked in both of the leading legal directories.

Ben is recognised as a leading silk in the latest editions of both the leading legal directories, Chambers UK and Legal 500, for his expertise in admin and public, banking and finance, civil liberties and human rights and financial services. Recent comments include:

- "A talented silk who never has a bad day. Always outstanding. Ben is frighteningly excellent and relentless." - Legal 500, 2023
- "Ben Jaffey is a class act in the field of contentious regulatory cases. He's extremely bright and all over the detail, whilst retaining a brilliant grasp of the bigger picture and overall strategy of a case." -Chambers UK, 2023
- "Ben Jaffey is encyclopedic on the law and the processes. He understands them and is fantastic to work with. He is crisp and gets to the point in his advocacy." -Chambers UK, 2023

Previous comments include:

- "He takes on the most difficult cases and is invariably right all the time." - Chambers UK
- "Absolutely brilliant." - Legal 500

EXPERIENCE

Public & Regulatory

Ben has a wide-ranging public and regulatory practice. He appears for and advises claimants and defendants, including companies, central government, local authorities, public interest groups, individuals and regulators. Before taking silk, he was a member of the Attorney General's A Panel and the Attorney General's Public International Law A Panel.

“He's absolutely brilliant: so clever, and he understands the broader context.”

— CHAMBERS AND PARTNERS, 2023

Cases

In the matter of an application by JR87 for Judicial Review

COL11833

The High Court in Northern Ireland held that the Northern Irish school curriculum for religious education is in breach of the ECHR rights of a child and her father. The Court held that the curriculum is not sufficiently objective, critical and pluralistic. Ben acted for the Claimant.

R (Eric Kind) v Secretary of State for Home Department

[2021] EWHC 710 (Admin)

The Divisional Court quashed the Home Office's decision to refuse of security clearance to Mr Eric Kind, who was offered the position of Head of Investigations for the Investigatory Powers Commissioner's Office. Ben acted for the Claimant.

R (Reprive & Ors) v Prime Minister

[2020] EWHC 1695 (Admin)

Acting for the Claimants in this judicial review challenge to the Prime Minister's decision not to order an independent judge-led inquiry into UK complicity in torture and rendition.

Crossley & Ors v Volkswagen Aktiengesellschaft

[2019] EWHC 783 (QB)

Acted for the Claimants in proceedings arising out of the 'emissions scandal', which broke in the US in September 2015. Following a two-week trial of two preliminary issues, Mr Justice Waksman found that the controversial engine software function amounts to a 'defeat device' for the purpose of EU law, and that previous findings of the relevant German authorities were binding on the High Court in that respect.

R (McConnell) v Registrar General

The Court of Appeal has upheld the Administrative Court's decision that a trans man who gave birth to a child must be registered as the child's mother. The Court held that this did not breach the Gender Recognition Act 2004 or Articles 8 or 14 of the ECHR. Successfully acted for the Registrar General and the Secretaries of State.

Privacy International Bulk Communications Data

Representing Privacy International in challenge to UK intelligence services collection and use of bulk communications data of all UK telephone and internet users. Judgment pending in Grand Chamber of Court of Justice of the European Union.

R (Simonis) v Arts Council

Successfully represented Arts Council in resisting attempt by owner of Giotto painting to remove it from the UK and EU and prevent its return to Italy. Appeal pending in the Court of Appeal.

Third Direction (Privacy International and others v Security Service)

Challenge to previously secret policy of authorising MI5 agents to commit serious criminal offences in the UK. Representing Privacy International, Reprieve and others. Pending in Investigatory Powers Tribunal.

10 Human Rights NGOs

Challenge to bulk surveillance relying on Edward Snowden documents seeking new safeguards. Acting for coalition of Human Rights organisations in the Grand Chamber of the European Court of Human Rights. Judgment pending.

Qatar Financial Centre Regulatory Authority v First Abu Dhabi Bank

Successfully acted for QFC Regulatory Authority in application to commit major UAE bank for contempt for non-compliance with Court orders, and successful applications for cross-jurisdictional disclosure in investigations of allegations of currency manipulation during Qatar-UAE blockade.

Heathrow Third Runway Litigation

Acting for Mayor of London in Court of Appeal challenge to authorisation of a Heathrow Third Runway.

R (Privacy International) v Investigatory Powers Tribunal

Successfully challenged 'ouster' clause in Supreme Court preventing judicial review of decisions of the Investigatory Powers Tribunal.

R (Bancoult & Hoareau) v Foreign Secretary

Challenge to refusal of government to allow the Chagossian people to return to British Indian Ocean Territory. Pending in the Court of Appeal.

R (TT) Registrar General

Leading transgender rights case. Should a transgender man (female to male) who gives birth to a child be recorded as 'father' or 'mother' on the child's birth certificate? Successfully acted for Secretaries of State before President of the Family Division arguing that a trans man was a 'mother'.

McCloud and others v Lord Chancellor

Successfully represented 6 High Court and Court of Appeal judges in Equality Act 2010 age and race discrimination challenge to reduction in judicial pensions (Court of Appeal).

R (ClientEarth No. 2) v SSEFRA

Successfully acted for ClientEarth in challenge to the UK's failure to meet air quality standards in London and other major urban areas. At present, it is estimated that over 20,000 early deaths each year are caused by the UK's failure to meet EU air quality standards. The Court ordered a full reconsideration of the air quality plans for the entire country. The Government has accepted the decision and new clean air zones will be introduced across the UK.

R (News Media Association) v Press Recognition Panel

Successfully acted for PRP in challenge to recognition of IMPRESS under the Leveson Royal Charter Scheme for press regulation.

R (Public Law Project) v Lord Chancellor

Supreme Court (2016)

Successfully acted for PLP in Supreme Court challenge to the residence test for judicial review.

Mountstar v Charity Commission / Cup Trust

(2016)

Representing Charity Commission in litigation concerning the use of a charity to facilitate £176m tax avoidance scheme.

R (KPMG) v Holmcroft

(2016)

Successfully acted for Barclays in judicial review of the 'decision' of KPMG as independent reviewer of the sale of Interest Rate Hedging Products by Barclays.

ClientEarth

Supreme Court (2015)

Successfully acted for ClientEarth in EU law challenge to the UK's failure to meet air quality standards in London and other major urban areas.

R (Davis & Watson) v Secretary of State for Home Department

(2016)

Acting for David Davis MP and Tom Watson MP in Court of Justice of the European Union in challenge to the requirements of the Data Retention and Investigatory Powers Act 2014.

R (Hottak) v Secretary of State for Defence

(2016)

Acting for Afghan interpreters who worked for British forces in challenge to resettlement scheme. Court of Appeal.

Privacy International and others v GCHQ

(2015)

Acted in Investigatory Powers Tribunal for Privacy International in case concerning the legality of arrangements for computer hacking by GCHQ.

Caroline Lucas MP & Baroness Jones v Security Services

(2015)

Acted for Parliamentarians in challenge to Security Services' arrangements for protection of MPs communications under the 'Wilson doctrine'.

R (Roberts) v Secretary of State for the Home Department

(2015)

Successfully acted for SSHD in Supreme Court challenge about stop and search under s. 60 CJPOA 1994. Judgment pending.

R (English Bridge Union) v Sport England and others

(2015)

Acting for Secretary of State in judicial review claim about whether Sport England acted lawfully in declining to recognise bridge as a sport.

R (Serdar Mohammed) v Ministry of Defence

(2016)

Acting in several Supreme Court appeals arising out of UK detention operations in Afghanistan and Iraq, and 'extraordinary rendition' operations.

Belhaj & others v Security Services

(2015)

Successfully acted for Libyan families in claim in the Investigatory Powers Tribunal about the protection of legal professional privilege when individuals may be under surveillance. First claim where a complaint to the IPT against the Security and Intelligence Services has ever been upheld.

Belhaj & Boudchar v Jack Straw MP & others

(2015)

Successfully acted for Libyan family in Court of Appeal in claims about UK involvement in rendition and torture. Judgment pending in Supreme Court.

Privacy International v Security Services

(2017)

Successfully obtained a reference to the CJEU in case about mass collection of 'bulk personal datasets' and 'bulk communications data'. The IPT decided that the Security and Intelligence Services had been unlawfully collecting and holding data on the UK population for over 10 years and the issue of future collection has been referred to Luxembourg. This will be one of the last UK references before Brexit.

R (JK) v Registrar General

(2015)

Successfully acted for the Registrar General defending claim by male to female transsexual who wished to change her name and gender as recorded on her childrens' birth certificates.

R (Evans) v Attorney General

(2014)

Successfully acted for Guardian journalist in freedom of information case about Prince Charles' letters to Ministers (Supreme Court).

R (Public Law Project) v Lord Chancellor

(2014)

Acting for PLP in challenge to the residence test for legal aid.

R v Crawley (Operation Cotton)

(2014)

Successfully acted for the FCA in Court of Appeal challenge to decision of trial judge to stay criminal proceedings due to Very High Cost Case dispute with counsel.

R (Pressbof) v Culture Secretary

(2014)

Successfully acted for Secretary of State in Court of Appeal challenge by Pressbof to Royal Charter press recognition body.

Gleaves & Grant v Secretary of State for the Home Department

(2014)

Acting for the Home Secretary in actions brought by large numbers of prisoners concerning prison sanitation.

Rahmatullah v SSFCA

[2013] 1 AC 614, Supreme Court (2013)

A successful claim for habeas corpus for a detainee in Bagram, Afghanistan.

Ladele v UK

European Court of Human Rights (2013)

Acting for a marriage registrar who refused to conduct civil partnerships on grounds of religious belief.

Civil Liberties & Human Rights

Ben has a wide-ranging Civil Liberties and Human Rights practice. He appears for and advises claimants and defendants, including companies, central government, local authorities, public interest groups, individuals and regulators. Before taking silk, he was a member of the Attorney General's A Panel and the Attorney General's Public International Law A Panel.

“If you need someone to challenge the government, Ben is your man.”

– CHAMBERS AND PARTNERS, 2023

Cases

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The High Court in Northern Ireland held that the Northern Irish school curriculum for religious education is in breach of the ECHR rights of a child and her father. The Court held that the curriculum is not sufficiently objective, critical and pluralistic. Ben acted for the Claimant.

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[2020] EWHC 1695 (Admin)

Acting for the Claimants in this judicial review challenge to the Prime Minister's decision not to order an independent judge-led inquiry into UK complicity in torture and rendition.

MS (Pakistan) v Secretary of State for the Home Department

[2020] UKSC 9

Acting for the AIRE Centre in support of the appeal to the Supreme Court in this important human trafficking and modern slavery case.

R (McConnell) v Registrar General

The Court of Appeal has upheld the Administrative Court's decision that a trans man who gave birth to a child must be registered as the child's mother. The Court held that this did not breach the Gender Recognition Act 2004 or Articles 8 or 14 of the ECHR. Successfully acted for the Registrar General and the Secretaries of State.

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Belhaj v Straw and others

Acting for Libyan family subject to 'extraordinary rendition' from the Far East to Gaddafi's Libya. Claim against HM Government, Jack Straw MP and MI6 senior official. Succeeded in Supreme Court.

McCloud and others v Lord Chancellor

Successfully represented 6 High Court and Court of Appeal judges in Equality Act 2010 age and race discrimination challenge to reduction in judicial pensions (Court of Appeal).

R (ClientEarth No. 2) v SSEFRA

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R (News Media Association) v Press Recognition Panel

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Serdar Mohammed v Ministry of Defence

Acted for Afghan detainee in Supreme Court case about the legality of British armed forces detention operations abroad. Successful in Supreme Court.

R (Public Law Project) v Lord Chancellor

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A successful claim for habeas corpus for a detainee in Bagram, Afghanistan.

Ladele v UK

European Court of Human Rights (2013)

Acting for a marriage registrar who refused to conduct civil partnerships on grounds of religious belief.

Financial Services & Banking

Ben has an extensive regulatory law practice and has considerable experience before numerous regulatory tribunals, including the RDC and Upper Tribunal. He acts for individuals, firms, the FCA and foreign regulators.

Ben is currently instructed by regulators, financial institutions and individuals in relation to allegations of mis-selling, market abuse, LIBOR issues and systems and controls failures. Many of these cases are confidential and cannot be referred to here.

“Ben is phenomenally clever – he has an astonishing capacity to get on top of the detail quickly and provide a view. He does not sit on the fence.”

– CHAMBERS AND PARTNERS, 2023

Cases

Qatar Financial Centre Regulatory Authority v First Abu Dhabi Bank

Successfully acted for QFC Regulatory Authority in application to commit major UAE bank for contempt for non-compliance with Court orders, and successful applications for cross-jurisdictional disclosure in investigations of allegations of currency manipulation during Qatar-UAE blockade.

Law Debenture Trust v Ukraine

Acting for State of Ukraine defending a \$3 billion claim brought by Russia for non-repayment of Eurobonds. Successful in Court of Appeal. Pending in Supreme Court. Cases raises issues of foreign act of state and justiciability of the threats made against Ukraine by Russia.

R (KPMG) v Holmcroft

(2016)

Successfully acted for Barclays in judicial review of the 'decision' of KPMG as independent reviewer of the sale of Interest Rate Hedging Products by Barclays.

Disciplinary proceedings

(2016)

Disciplinary proceedings before FRC Tribunal concerning collapse of large UK company.

Financial Reporting Council v Deloitte & Touche and Einollahi

(2014)

Successfully acted for D&T before FRC Appeals Panel and in claim for judicial review in disciplinary proceedings arising out of the takeover of MG Rover by the Phoenix Four.

Noujaim v Qatar Financial Centre Regulatory Authority

(2014)

Acted for QFC Regulatory Authority in appeal by regulated person to QFC Tribunal.

R v Crawley (Operation Cotton)

(2014)

Successfully acted for the FCA in Court of Appeal challenge to decision of trial judge to stay criminal proceedings due to Very High Cost Case dispute with counsel.

R (Willford) v Financial Services Authority

[2013] EWCA Civ 674

Judicial review against FSA for failure to give proper reasons in a decision notice.

FCA v Hobbs

(2013)

Acted for Respondent in appeal by FCA to the Court of Appeal in prohibition order and market abuse case.

Kashif Chaudhry and (2) Seifelden Abdelkareem v Qatar Financial Centre Regulatory Authority

(2012)

Successfully acted for the Qatar Financial Centre Regulatory Authority ("QFCRA") in the first challenge before the QFC Regulatory Tribunal by individuals to a decision notice of the QFCRA. The appeals concerned the collapse of Al Mal Bank LLC.

Commercial

Ben is regularly instructed in major commercial disputes, especially those with a financial services or civil fraud element.

He has particular experience in commercial fraud cases and cases requiring without notice interim relief including freezing orders, search orders and obtaining Norwich Pharmacal relief.

For example, Ben acted for Lebara Mobile in urgent interim injunction proceedings about IP blocking by Lyca Mobile (Lebara v Lyca [2015] EWHC 3318 (Ch)) and obtained Norwich Pharmacal relief for Karren Brady of West Ham Football Club against accountants engaged by Tottenham Hotspur who had obtained her bank and telephone records (Brady v PKF & Hill [2011] EWHC 3178 (QB)). He was the counsel for the Claimant in Campaign Against Arms Trade v BAE Systems Plc (2007), obtaining extensive Norwich Pharmacal relief (and the first without notice protective costs order) to force BAE to explain how and why it had obtained CAAT's privileged legal documents. He also obtained a Norwich Pharmacal order for Binyam Mohamed requiring the Security Service to disclose evidence they held about the Claimant's mistreatment by or on behalf of the USA.

Ben has particular experience in media disputes. He has acted for broadcasters, collecting societies, telecoms companies, record companies, film finance and distribution companies, artists, performers and managers in regulatory, commercial and employment disputes.

ACHIEVEMENTS

Education

Degree

MA Hons (Cantab)

Awards

Liberty's Human Rights Lawyer of the Year

In 2015, Ben won Liberty's Human Rights Lawyer of the Year award.

Chambers UK Top Junior Bar 100

In December 2013, Ben was ranked as one of Chambers UK's Top Junior Bar 100, in their inaugural listing of the top barristers practising at the Bar of England & Wales. "Combines being very clever with also being very practical. He is quick, responsive, very clear, and an excellent all-rounder for someone still quite young."

Memberships

- COMBAR
- ALBA
- FSLA
- HRLA
- Liberty
- Justice

Selected earlier reported cases

Public & Regulatory and Civil Liberties & Human Rights

- R (Binyam Mohamed) v Foreign Secretary [2011] QB 218
- R (Secretary of State) v Deputy Coroner (2010)
- R (E) v JFS [2010] 2 AC 728
- Northern Rock [2009] EWHC 227 (Admin)
- R (Corner House Research & Campaign Against Arms Trade) v Serious Fraud Office [2009] 1 AC 756, House of Lords

Financial Services

- Sea Containers [2008] UKPRT 5
- Jabre v FSA [2006] UKFSM 36
- Legal & General v FSA [2005] UKFSM 12

VAT registration number: 447008068

Barristers regulated by the Bar Standards Board