

# Sir James Eadie QC

*“He is in a different league – an outstanding advocate who deals with the most mind-blowing workload very effectively.”*

– CHAMBERS AND PARTNERS, 2016

Year of call: **1984**  
Appointed to silk: **2008**  
Degree: **MA: Magdalene College, Cambridge**  
Languages: **French (working knowledge)**



Sir James Eadie QC was appointed First Treasury Counsel in January 2009, breaking the tradition of appointing Junior Counsel to this role. In the profession, he is called the ‘Treasury Devil’. As such, he is the QC to whom the Government turn first for their major pieces of advice and litigation.

In the last two years he has advised the Government across the range of Government activity from terrorism, to the legal fall out of military operations, to the environment, to the financial crisis. He has acted in much of the major litigation brought against the Government (frequently in the Supreme Court and European Court of Human Rights), including for example:

## Inquiries:

- The Leveson Inquiry - acting for and advising the Government.
- The 7/7 bombings inquest - acting for the Security Service (in relation to the handling of sensitive material see [2010] 1 WLR 2564).
- Mid staffs - the Francis Inquiry - acted for the Secretary of State for Health.
- Finucane - judicial review of decision not to set up a 2005 Act public inquiry into the murder of Northern Irish solicitor, Patrick Finucane.
- R (M) v Home Secretary [2012] EWCA Civ 668 - challenge to refusal to set up public inquiry into handling of demonstration at an immigration centre.
- Whether the Chief Justice of Gibraltar should be removed from office: [2009] UKPC 43.

## Drone Strikes:

- R (Noor Khan) v Foreign Secretary [2014] EWCA Civ 24: challenge to the alleged provision of intelligence to the US for use in drone strikes (judgment of Divisional Court awaited).

## Closed / Secret Evidence:

- Representing the Government in a series of cases on whether its use is permissible in court and if so in what circumstances: *Tariq v Home Office* [2011] UKSC 35, linked with *Al-Rawi* [2011] UKSC 34; *AHK v The Home Secretary* [2012] EWHC 1117 Admin; and in relation to the Justice and Security Bill.
- *R (Corey) v Parole Commissioners* - challenge in the Court of Appeal of Northern Ireland to the reception of evidence by the Parole Commissioners in a closed hearing to determine whether a recalled life sentence prisoner believed to be re-involved in terrorism.

## Extradition:

- Acted for the Home Secretary in the extradition of Abu Hamza, Barbar Ahmad and others - acting both in the ECtHR proceedings (concluding with the ECtHR's judgment of 10 April 2012) and in the domestic challenges (concluding with the Divisional Court's judgment at [2012] EWHC 2989 (Admin)).

## Prisoners Voting:

- He represented the Government in the domestic courts (*Chester v Secretary of State for Justice* [2010] EWCA Civ 1439); before the ECtHR in *Greens & MT v the UK*; and for the UK in the intervention in *Scoppola v Italy* before the Grand Chamber.

## Wearing of crosses and other religious symbols at work:

- *Ladele and Chaplin v the UK* (judgment awaited from the ECtHR).
- Whether domestic law failed adequately to protect Max Mosley's privacy rights under Article 8 ECHR: *Max Mosley v UK* (it did not, as the ECtHR found).

## Iraq - numerous advices and cases including:

- *Ramatullah v Foreign Secretary* [2012] UKSC 48 (habeas corpus challenge seeking UK intervention in relation to a person transferred in Iraq to US custody).
- *R (Catherine Smith) v Oxfordshire Coroner* [2010] UKSC 29.
- *Al-Skeini & Al-Jedda v the UK* before the Grand Chamber of the European Court of Human Rights.
- *Smith v MoD* [2013] UKSC 41 - damages claims relating to Snatch Landrovers and other equipment, raising issues of the reach of the ECHR in military operations and the scope of the common law principles of combat immunity (to be heard by the Supreme Court in February 2013).
- Whether there should be a public inquiry into the allegations of ill-treatment of detainees in Iraq by British forces applying the principles in the Article 2 and Article 3 ECHR jurisprudence (*R (Mousa) v Secretary of State for Defence* [2012] HRLR 6 (CA)).

## Afghanistan:

- Numerous advices and cases including as to the reach of the ECHR into the military and security operations in: *R (Evans) v Secretary of State for Defence* [2010] EWHC 1445 (Admin), recently revisited in *R (SM) v Secretary of State for Defence* [2012] EWHC 3282 Admin in relation to the continuing transfer of detainees to the Afghan authorities.

## Domestic Security:

- Various claims against the Government for Norwich Pharmacal relief including R (Omar) v Foreign Secretary [2012] EWHC 1737 Admin.
- Home Secretary v CC [2012] EWHC 2837 (Admin) - control orders, TPIMs, abuse of process in the context of allegations of terrorism in Somalia.
- Police powers to stop and search post Gillan v the UK: see R (Roberts) v Commissioner of Policy for the Metropolis [2012] EWHC 1977 (Admin).
- The Consolidated Guidance to the Security and Intelligence Agencies on lawful dealing with foreign States: Equality and Human Rights Commission v Prime Minister [2011] EWHC 2401 Admin.
- DNA retention and the issues of compatibility with the ECHR surrounding it: R (GC) v Commissioner of Police for the Metropolis [2011] UKSC 21.
- Grant v Ministry of Justice [2012] ACD 32: ECHR challenge to 'slopping out' regime in prisons.
- Whether the names of convicted minors could be maintained on the sex offenders register indefinitely compatibly with Article 8 ECHR (R (F) v Secretary of State for the Home Department [2010] UKSC 17).
- The compatibility with the ECHR of enhanced criminal record checks (R (L) v Metropolitan Police [2010] 1 AC 410 (HL).
- The ECHR compatibility of the Investigatory Powers Tribunal's procedures with Article 6 ECHR: Kennedy v the UK.

## Courts System & Justice Challenges:

- R (Law Society of England and Wales) v Lord Chancellor [2012] EWHC 794 Admin - challenge to legal aid funding levels.
- Whether judicial review could be mounted from refusal of permission to appeal by the Upper Tribunal: R (Cart) v Upper Tribunal [2011] UKSC 28.
- Whether EU law claims for damages can be mounted for judicial error (Cooper v AG [2010] EWCA Civ 464).

## Taxation:

- The taxation of non-domiciled persons: R (Davies) v HMRC [2011] UKSC 47.
- Challenges to the refusal to provide into the public domain confidential information relating to settlements between HMRC and taxpayers: R (UK Uncut) v HMRC [2012] EWHC 2017 Admin.

## Immigration:

- Lord Carlile of Berriew v Home Secretary [2012] EWHC 617 Admin - exclusion of Iranian from the UK on international relations grounds.
- R (Chapti) v Home Secretary [2011] EWHC 3370 Admin (judgment of Court of Appeal awaited) and R (Bhavyesh) v Home Secretary [2012] EWHC 2789 Admin (ECHR and discrimination challenges to pre-entry English language test).
- BA v Home Office [2012] EWCA Civ 944 - claims for damages and judicial review, abuse of process.
- FPG v Serco and the Home Office [2012] EWHC 1804 Admin - handcuffing of immigration detainees in medical treatment.
- Duties of care owed to immigrants: Home Office v Mohammed [2011] EWCA Civ 351.
- Whether a Muslim preacher could be excluded from the UK on the basis of his radical views: Naik v Home Secretary [2010] EWHC 2825 (Admin) – judgment in the Court of Appeal awaited.

## Environmental:

- Advising and representing DEFRA in relation to the proposed badger cull.
- Whether the system for dealing with costs in environmental cases is 'prohibitively expensive' under the Aarhus Convention and EU law: *R (Edwards) v Environment Agency* [2011] 1 WLR 79; [2010] UKSC 57.

## Freedom of Information & Media:

- *R (BBC) v Secretary of State for Justice* [2012] EWHC 13 Admin - affording access to BBC to interview Babar Ahmed.
- *Plowden v Information Commissioner*, FTT 18 May 2012 - exemptions applicable to Bush-Blair correspondence in advance of the decision to conduct military operations in Iraq.
- *Dept of Health v Information Commissioner*, FTT 5 April 2012 - free space for Government decision making - risk registers.
- Advising the Government on the exercise of the power of veto under FOIA.
- Whether Jon Venables new identity should be revealed to the press following his conviction on child pornography charges: *R v Venables*, 30 July 2010.

## Commercial & Civil Recovery:

- Advising Financial Services Authority in relation to the LIBOR issues.
- Acting for the Secretary of State for Transport in the proceedings brought by Virgin challenging the procurement processes for the West Coast Train Line franchise.
- Acting for SFO in relation to proceedings brought by the Tchenguiz brothers (judicial review at [2012] EWHC 2254 Admin; claims for damages ongoing).
- Acting for HMRC in the recent Supreme Court hearing in relation to whether legal advice privilege should be extended to cover communications with accountants giving tax advice: *R (Prudential) v HMRC* (judgment awaited).
- Acting in various proceedings brought by the Serious Organised Crime Agency: *SOCA v Gale* [2011] UKSC 49; and *SOCA v Perry* [2012] UKSC 35
- *Globespan Airways Ltd* [2012] EWCA Civ 1159 - notices to Companies Registrar.
- *Official Receiver v Negus* [2012] 1 WLR 1598 - payment of fees in insolvency.
- Whether the Emergency Budget of June 2010 should be quashed for alleged failure adequately to conduct discrimination assessments of the impact on women: *Fawcett Society v HM Treasury*, decision on permission December 2010.

## Intellectual property:

- Advising in relation to tobacco packaging.
- The transposition of EU Directives into domestic law in the field of copyright: *ITV Broadcasting v TY Catchup* [2011] FSR 40.
- Challenges under EU law to the Digital Economy Act: *R (BT) v Secretary of State for Business* [2012] Bus LR 1766 (CA); [2011] 3 CMLR 5 (Admin Court).

## Social Security & Pensions Issues

- *R (Staff Side of the Police Negotiating Board) v Secretary of State for Work and Pensions* [2102] EWCA Civ 332 - challenge to the decision to switch uprating of state benefits from RPI to CPI.
- *R (Karooonian) v Child Maintenance Commission* [2012] EWCA Civ 1379 - system for enforcing child support orders.

- R (Cockburn) v Secretary of State for Health [2011] EWHC 2095 Admin - discrimination challenge to health service pensions.
- R (CPAG) v SSHD [2011] EWHC 2616 Admin - challenge to Equalities Impact Assessments in relation to reforms to housing benefits.
- Whether Sharon Shoemith was treated unlawfully in her removal from office (R (Shoemith) v Ofsted [2011] EWCA Civ 642.

Prior to his appointment as First Treasury Counsel, he acted for private clients and on numerous occasions for the range of Government departments and a variety of financial and other regulatory authorities. He also advises and acts in public inquiries.

James is recommended as a leading silk in the independent legal directories

## Star at the Bar

James was included in the Chambers and Partners 2019 list of "Stars at the Bar":

"James Eadie QC has a comprehensive public law practice encompassing a broad range of areas including civil liberties and human rights, immigration, data protection and indirect tax disputes. He recently intervened on behalf of the Secretary of State for Health in the Supreme Court case involving Charlie Gard, a boy born with an inherited disease that significantly reduced his quality of life. He also advised the Government in Big Brother Watch v UK, a case regarding the mass surveillance of communications. Market observers heap praise on his courtroom abilities, describing his as an 'amazing litigator' and 'an absolute consummate advocate with a natural feel for the court.' 'He's an incredibly authoritative speaker,' comments one peer from another set, who adds: 'He manages to make any point sound perfectly reasonable. He's extremely smooth.' Sources also underscore the quality of Eadie's written work. One comments that he is 'impressive in terms of his drafting as well as his oral advocacy.'"

## Chambers UK Top Silk Bar 100

In December 2013, James was ranked as one of Chambers UK's Top Silk Bar 100, in their inaugural listing of the top barristers practising at the Bar of England & Wales. "A frighteningly superb opponent," and as an advocate whose "strongest quality is that he persuades the court that he is being reasonable."

James was named in The Times Law 100 2012 listing the most influential lawyers in Britain. He has appeared in the list in previous years.

He was named Human Rights and Public Law Silk of the Year at the Chambers UK Bar Awards 2017.

## EXPERIENCE

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### Public & Regulatory

James has appeared regularly in major judicial review actions many with ECHR issues at their heart. He has acted both for private clients and for the range of Government departments. As 'Treasury Devil' he now leads of the Government in many of the most important judicial reviews.

James practises extensively in public and regulatory law and examples of his recent work can be found below.

***"The star of his generation – he has such a volume of work to do, but I've never caught him missing a detail."***

– CHAMBERS AND PARTNERS, 2019

## Cases

### **Public Law Project v The Lord Chancellor**

[2015] EWCA Civ 1193

A challenge to the legality of the imposition of a residence test in the context of legal aid reform (Judgement handed down on 25 November 2015).

### **Chapti/Bibi v Secretary of State for the Home Department**

2015 UKSC 68

Claimants are challenging provisions of the immigration rules requiring that spouses seeking entry have proficiency in English. (Judgement handed down 18 November 2015.)

### **Rahmatullah v Secretary of State for the Home Department**

(Supreme Court)

Challenges to the existence of the common law principle of foreign active state and the application of state immunity in the context of alleged unlawful rendition and torture. (Supreme Court hearing 9 – 12 November 2015.)

### **Wang Yam v Central Criminal Court & Her Majesty's Attorney General**

(Supreme Court)

Raising the issue of whether or not it is permissible in principle for a domestic UK court to grant an injunction preventing the transmission of security sensitive material to the European court of Human Rights in Strasbourg. (Hearing in Supreme Court 2 November 2015).

### **The Lord Chancellor v Detention Action Group**

[2015] EWCA Civ 840

The legality of fast track immigration detention processes in the Court of Appeal. (Judgment handed down 29 July 2015)

## Civil Liberties & Human Rights

In the human rights/civil liberties arena, and in addition to the domestic cases in the UK courts, he has appeared on over 50 occasions before the European Court and Commission in Strasbourg; and in a series of important domestic ECHR/HRA challenges.

James practises extensively in civil liberties and human rights law and examples of his recent work can be found below.

***“The way he manages his workload is very impressive; he is the busiest barrister in the country.”***

– CHAMBERS AND PARTNERS, 2019

## Cases

### **Keyu & others v Foreign and Commonwealth Affairs and another**

[2015] UKSC 69

Allegations of killing in 1948 by British soldiers in Malaya.

Issue 1 – should an article 2 ECHR compliant investigation be ordered in 2015

Issue 2 – should proportionality be a free standard ground of domestic judicial review so as to supplant the concept of rationality. (Judgment handed down on 25 November).

### **Hutchinson v UK**

(European Court of Human Rights)

Challenge to the compatibility with Article 3 ECHR of the UK system for imposing whole life sentences (hearing in ECHR on 21 October 2015).

### **Serdar Mohammed v The Secretary State of Defence (and other related litigated conflicts arising in Afghanistan)**

[2015] EWCA Civ 843

A series of challenges in relation to the legality of detention and in relation to whether or not further investigation/enquiry was required under the ECHR. (Judgement from Court of Appeal on 30 July 2015).

### **Beghal v Director of Public Prosecutions**

[2015] UKSC 49

Challenge to Schedule 7 - powers to stop, question and search people at UK ports. (Judgment handed down on 22 July 2015).

### **Gaughran v The Chief Constable of the Police Service of Northern Island & Secretary of State**

[2015] UKSC 29

Challenge to retention of DNA and other personal data re convicted persons. (Judgment handed down 13 May 2015).

### **Al Waheed v The Ministry of Defence**

(Supreme Court)

Whether international humanitarian law can provide a basis for detention in a non-international armed conflict situation. (Hearing in Supreme Court 1 February 2015).

## Financial Services

James has advised the Government on a variety of different aspects of the financial and banking crisis including in relation to powers under the Banking Act 2009, the change from RPI to CPI as the inflation/uprating yardstick.

He has frequently acted for and advised both the FSA in relation to disciplinary proceedings and other aspects of its regulation. For example:

- He advised the FSA in relation to the LIBOR scandal.
- He acted for the FSA in a challenge to the jurisdiction of the Upper Tribunal to strike out references to it by individuals no longer deemed to be fit and proper: *Sharma v FSA* (decision of Sir Stephen Oliver of December 2010).

He has also frequently acted for and advised private clients subject to investigation and/or such FSA proceedings. For example, he acted for Shell in the FSA proceedings brought against it in relation to its oil reserves.

He acted for HM Treasury in relation to claims in the Administrative Court (both dismissed after permission hearings) that

- the Government should compel Lloyds TSB to adopt 'greener' policies;
- the Emergency Budget of 2010 should be quashed because of alleged failures to conduct gender impact assessments: *Fawcett Society v HM Treasury*.

***“An excellent advocate and a very clear thinker.”***

– CHAMBERS AND PARTNERS, 2019

## ACHIEVEMENTS

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### Appointments

- Historic: Junior Counsel to the Crown, Common Law (“A” Panel) (1997-2008); First
- Current: Treasury Counsel (“Treasury Devil”) (2009-)