

Sam Grodzinski QC

“A superb advocate, delightful to deal with and a brilliant legal mind”

– CHAMBERS AND PARTNERS, 2016

Year of call: **1996**
Appointed to silk: **2011**
Degree: **MA (Oxon) Law**
Languages: **French (working knowledge), Hebrew (working knowledge)**



Sam is a leading silk in public and regulatory law; and in tax litigation. He is regularly instructed by the top City law firms and accountancy firms. His recent clients have included Adecco; BPP; BT; Carlsberg; the Conservative Party; DHL; First State; General Healthcare Group; Glencore; the Government Legal Department; the Governments of Bermuda and Guernsey; HM Revenue & Customs; the Law Society; the Guardian Media group; the Metropolitan Police; Molson Coors; Orange; Sky; Telefonica; and Virgin Media.

As well as appearing at all levels of domestic Courts (including many cases in the Supreme Court) Sam has been involved in litigation in the European Court of Human Rights; the Court of Justice of the EU; Bermuda; Cyprus; and India.

Sam started his legal career as a litigation solicitor at Freshfields in London and New York. He moved to the Bar in 1995 and became a QC in 2011. Sam was appointed a Deputy High Court Judge in 2018.

Sam is recognised in both of the leading independent legal directories and in addition to the rankings in his core areas of Administrative & Public Law, Civil Liberties & Human Rights and Tax, he is also recommended in Local Government and Education. In the Taxation field in Chambers UK 2018, Sam is described as being "a celebrated silk who attracts unreserved praise for his assured advocacy style" and "an absolute class act; intellectually fabulous". For Administrative & Public Law, Chambers UK 2018 acclaims him as "outstanding in every element- superb analysis, brilliant paperwork and a fantastic advocate". In the Education field in Chambers UK 2016, Sam is praised as "great for heavyweight public law challenges" and "clients love him as he is so thorough and lovely to work with" and in Legal 500 2015 he is "recognised for his expertise in complex education sector issues." In the Local Government practice area in Chambers UK 2016 he is called "a brilliant public lawyer with a tremendously good reputation."

Sam was shortlisted in the Tax Silk of the Year category at the Legal 500 2019 awards.

EXPERIENCE

Tax

Sam has in recent years become widely recognised as one of the country's leading tax practitioners, in particular in cases often involving the cross over between public law and tax; and cases involving VAT, excise duties, and other indirect taxes. He regularly works both for and against HMRC.

“Incredibly bright, able and sharp.”

– CHAMBERS AND PARTNERS, 2019

Cases

Rowe v Ingenious LLP

[2019] (Ongoing)

Acting for the largest group of investors in multi-million pound civil claims against the promoters of the Ingenious film and game schemes; and in related claims against several banks and other intermediaries who recommended the schemes. The Ingenious litigation is one of the largest, most complex claims currently in the Chancery Division. Instructed by Stewarts Law.

Development Securities Ltd v HMRC

[2019] UKUT 0169 (TCC)

Acted for Development Securities, in this appeal concerning corporate tax residence, and the application of the Wood v Holden principles to Special Purpose Vehicles.

Abramovich v Hoffmann

2019

Sam acted for Mrs Irina Abramovich her claim for breach of contract and restitution with the former Executive Manager of her Family Office. The claims sought recover recovery of the tax paid by Mrs Abramovich for the benefit of the Defendant.

Maugham v Uber

2019

Sam is acting for Uber in defending a claim brought by Joylon Maugham QC seeking a declaration in the High Court as to whether Uber makes VATable supplies of transport services.

R (PML Accounting) v HMRC

[2018] EWCA Civ 2231; [2019] STC 1

Sam acted for the Appellant in this JR concerning the scope of HMRC's information gathering powers, and the power of the FTT to determine the legality of information notices during the course of a penalty appeal.

R (Glencore Energy UK) v HMRC

[2018] STC 51

Acting for

Glencore, instructed by Freshfields Bruckhaus Deringer, in a challenge to HMRC's assessment under the new Diverted Profits Tax created by FA 2015. Following judgment in the Court of Appeal the case is now proceeding in the tax tribunal, raising transfer pricing and other issues.

Zipvit v HMRC

[2018] STC 1502

Acting for HMRC in this appeal concerning the right to reclaim "embedded" input tax following the CJEU judgment in TNT. Following HMRC's success in the Court of Appeal, the case is now due to be heard in the Supreme Court.

R (Veolia ES Landfill Ltd) v HMRC

[2018] UKFTT 181 (TC); [2016] EWHC 1880 (Admin); [2015] EWCA Civ 747

Acting for Veolia, instructed by Simmons & Simmons, in this Judicial Review and FTT appeal concerning HMRC's policy on landfill tax. Also acting in parallel FTT proceedings.

Jazztel Plc v HMRC

[2017] EWHC 677 (Ch)

Acted for

Jazztel (now Orange Spain Plc), instructed by PWC Legal, in a claim for repayment of Stamp Duty Reserve Tax that had been charged contrary to EU law. The claim was the leading case in a GLO, and raised issues concerning the validity of retrospective limitation periods in EU law; and the proper approach to determining whether tax had been paid under a mistake of law.

Air Berlin v HMRC

[2017] Case 573/16

Acted for

Air Berlin, instructed by PWC Legal, in this test case in the CJEU concerning the compatibility of the UK stamp duty regime with EU law. The Court gave judgment in Air Berlin's favour, holding that the relevant provisions of UK law were incompatible with the Capital Duties Directives.

BPP Holdings Ltd v HMRC

[2017] UKSC 55; [2017] 1 WLR 2945

Acted for

BPP, instructed by Simmons & Simmons. The Supreme Court held that the stricter approach to compliance with rules and directions made under the CPR, set out in *Mitchell v News Group Newspapers Ltd* [2014] 1 W.L.R. 795 and *Denton v TH White Ltd* [2014] 1 W.L.R. 3926, was relevant to the approach in the tax tribunal, and that the tribunal had lawfully debarred HMRC for non-compliance..

R (Telefonica Europe Plc) v HMRC

[2016] UKUT 173 (TCC)

Acted for Telefonica, instructed by Herbert Smith Freehills, in its challenge to the method of calculating VAT on non-EU roaming charges.

General Healthcare Group v HMRC

[2016] UKUT 315 (TCC)

Acted for GHG, a major private healthcare provider, instructed by Deloitte, in this FTT appeal concerning the VAT treatment of medical supplies.

R (Sword Services) v HMRC and R (Rowe) v HMRC

[2016] EWHC; [2015] EWHC 2293 (Admin)

Acting for HMRC on several JR challenges arising out of the Accelerated Payment legislation enacted in Finance Act 2014.

R (Hudson Contract Services Ltd) v Secretary of State for Business, Innovation and Skills & CITB

[2016] EWHC 844 (Admin)

Acted for BIS and the CITB in defending Hudson's challenge to changes in the industrial training levy. Instructed by Field Fisher.

Castleton v Minister of Taxation

[2015]

Acted for several investment associations and banks in Indian Supreme Court case concerning corporation tax on foreign investment funds.

R (Ecclestone) v HMRC

[2015]

Acted for Bernie Ecclestone, instructed by Herbert Smith, in this Judicial Review concerning HMRC's £1billion income tax assessment imposed, despite an earlier settlement agreement with Mr Ecclestone.

Adecco v HMRC

[2015] UKFTT

Acted for Adecco, instructed by Deloitte, in this appeal concerning the proper VAT treatment of recruitment services, following earlier FTT decision in Reed v HMRC.

Biffa v HMRC

[2015] SFTD 163

Acting for HMRC in a corporation tax appeal concerning the effect of s.195 FA 20013 and s.730A ICTA 1988.

BPP University College of Professional Studies v HMRC

[2014] UKFTT 644 (TC)

Acting for BPP, instructed by Simmons & Simmons, in this FTT appeal concerning the VAT single/multiple supply issue; and whether HMRC should be debarred from defending the appeal.

R (GMGRM Ltd) v HMRC

[2014] EWCA Civ 844

Acting for the Guardian newspaper group, instructed by Freshfields, in a judicial review challenge to HMRC's refusal to allow a late claim for group corporation tax relief.

Secret Hotels2 Ltd (formerly Med Hotels Ltd) v HMRC

[2014] UKSC 16

Acted for HMRC in this Supreme Court case about the place of supply in web-based hotel bookings for VAT purposes.

Next Distribution v HMRC

[2014] UKUT 277 (TCC)

Acted for HMRC in an appeal about the scope of industrial buildings allowance for corporation tax.

L v HMRC

(2013)

Acting for a leading supplier of dietary food and services, instructed by Rosetta Tax, in relation to a dispute with HMRC concerning VAT on single/multiple supplies.

D v HMRC

(2013)

Currently advising a major logistics company, instructed by PwC, on a dispute concerning whether an assessment to excise duty was made lawfully; involving both a judicial review and tax appeal to the FTT.

R (Bampton Property) v HMRC

[2012] EWCA Civ 1744

Acted for HMRC in the Court of Appeal in a judicial review about the duty to notify taxpayers of errors in their tax returns.

R (States of Jersey & Guernsey) v HM Treasury & HMRC

[2012] STC 1113

Acted for Guernsey in its JR challenge to the Government's decision to abolish Low Value Consignment Relief for goods imported from the Channel Islands.

RBS v HMRC

[2012] EWHC 9 (Ch); [2012] S.T.C. 797

Acted in cases concerning the insurance intermediary exemption in VAT.

Public & Regulatory

Sam has been involved in numerous leading cases in the public/regulatory arena. He was recently involved in one of the largest commercial group actions against the Government, in which the claimants received a multi-million pound settlement relating to their claim for breach of their A1P1 rights; advised the Conservative Party in relation to the Election Commission's investigations concerning election expenses; is acting for one of the UK's largest offshore wind farms in a judicial review against Ofgem; and acted for Glencore in a judicial review against HMRC.

“Very creative, totally committed, very pragmatic, and someone who has a gravity that the court trusts and respects.”

— CHAMBERS AND PARTNERS, 2019

Cases

R (Gwynt Y Mor Wind Farm Ltd) v Ofgem & Others

[2019] EWHC 654 (Admin)

Sam acted for one of the UK's largest offshore wind farm electricity generators, in this successful JR challenge to Ofgem's decision concerning who should bear the cost of a failure of a subsea electricity transmission cable. Instructed by Norton Rose Fulbright.

Campaign Against Antisemitism v DPP

[2019] EWHC 9 (Admin)

Sam acted for the Campaign Against Antisemitism in this JR of the DPP's decision to discontinue the CAA's private prosecution of a public order offence of using abusive words, arising from an anti-Israel rally in central London.

Mazhar v Lord Chancellor

[2018] 2 WLR 1304

Acted for the Lord Chancellor in defending a claim under the HRA for declaratory relief, following detention of Claimant in hospital on the ex parte order of a High Court Judge. Raised important issues as to judicial immunity and its relationship with the remedies available under the Human Rights Act 1998.

R (AYBS) v HM Senior Coroner for Inner North London

[2018] EWHC 969 (Admin)

Acted for the Claimant society, representing the Jewish and Muslim communities, to challenge the coroner's policy of refusing to take into account the religious need for speedy burials. Instructed by Asserson Law Offices.

R (Jet2) v Civil Aviation Authority

[2019] EWHC 336 (Admin)

Sam is acting for the Civil Aviation Authority, in this JR challenging its decision to publicise Jet2's failure to sign up to an ADR Scheme for compensating passengers for delayed flights. The case is currently on its way to the Court of Appeal on an issue concerning legal advice privilege.

R (PML Accounting) v HMRC

[2018] EWCA Civ 2231; [2019] STC 1

Sam acted for the Appellant in this JR concerning the scope of HMRC's information gathering powers, and the power of the FTT to determine the legality of information notices during the course of a penalty appeal.

R (Richardson) v Lord Chancellor

[2018] EWHC 1825 (Admin)

Sam acted for the Lord Chief Justice and the Judicial Executive Board in this JR Challenge arising from the decision to purchase Blackstone's Criminal Practice to replace Archbold for supply to criminal court benches.

Mitsui Sumitomo Insurance Co v Mayor's Office for Policing and Crime

[2016] 2 WLR 1148

Acted in Supreme Court and Court of Appeal for the Mayor's Office in this case concerning the arson of the Sony warehouse in August 2011; whether it had been destroyed by riot under the Riot Damages Act; and whether the Act entitled the claimants to consequential losses.

R (Hudson Contract Services Ltd) v Secretary of State for Business, Innovation and Skills & CITB

[2016] EWHC 844 (Admin)

Acted for BIS and the CITB in defending Hudson's challenge to changes in the industrial training levy. Instructed by Field Fisher.

Breyer & Others v Department of Energy & Climate Change

[2015] EWCA Civ 408

Acted for claimants in leading A1P1 damages claim concerning the Government's changes to the Solar Feed In Tariff subsidy scheme. Obtained multi-million pound compensation settlement in 2018.

R (Rotsztein) v HM Senior Coroner for Inner North London

[2015] EWHC 2764 (Admin)

Acting for claimant in challenge to Coroner's policy on non-invasive autopsies.

R (Hicks) v Commissioner of Police of the Metropolis

[2014] EWCA Civ 3

Acting for the Metropolitan Police in Court of Appeal challenge to the lawfulness of policing republican protest. (Currently on appeal to Supreme Court).

Khakh v Disclosure & Barring Service

[2013] EWCA Civ 1341

Acted for the DBS on this appeal concerning the proper approach to inclusion on the list of persons unsuitable to work with children and vulnerable adults.

R (Sturnham) v Parole Board

[2013] UKSC 47

Acted for the Parole Board in this Supreme Court case about the proper release test for prisoners serving IPP sentences.

Pearce v Commissioner of Police of the Metropolis

[2013] EWCA Civ 866

Acted for the Metropolitan Police in this appeal concerning police powers of search, in the context of policing the Royal Wedding.

R (Faulkner) v Parole Board

[2013] UKSC 23

Acted for the Parole Board in a Supreme Court case about damages under the Human Rights Act.

R (McGetrick) v Parole Board

[2013] EWCA Civ 182

Acted for Claimant in a challenge to the width of the Board's powers to exclude prejudicial evidence.

HomeSun & Friends of the Earth v Secretary of State for Energy and Climate Change

[2012] EWCA Civ 28

Acted for the solar industry in a challenge to the Government's changes to the scheme for subsidising green energy.

R (Bampton Property) v HMRC

[2012] EWCA Civ 1744

Acted for HMRC in the Court of Appeal in a judicial review about the duty to notify taxpayers of errors in their tax returns.

R (Law Society) v Lord Chancellor

[2012] EWHC 794 (Admin)

Acted for the Law Society in a challenge to criminal legal aid cuts.

R (Maxwell) v Office of Independent Adjudicator for Higher Education

[2012] EWCA Civ 1236

Acted for OIA in this case about whether its decisions resolving student complaints had to include findings on disability; and on the distinction between the roles of Ombudsmen and the Courts.

R (King) v Secretary of State for Justice

[2012] EWCA Civ 376

Acted for the Secretary of State in relation to the lawfulness of procedures leading to prisoners being kept in segregation, and whether the procedure was compatible with their ECHR rights under Art 6 and 8.

Civil Liberties & Human Rights

Sam regularly acts for and against central government and other public authorities in a wide range of civil liberties and human rights cases. Recent cases include acting for the Jewish and Muslim communities in a judicial review of a coroner's policy concerning religious burials (AYBS); acting for the Metropolitan Police in a Supreme Court appeal concerning whether the common law of breach of the peace is compatible with the ECHR (Hicks); and acting for the Secretary of State for Justice in the Supreme Court in a case concerning the lawfulness of cellular confinement (Bourgass).

“His writing demonstrates impressive erudition.”

— CHAMBERS AND PARTNERS, 2019

Cases

R (Bourgass) v Secretary of State for Justice

[2016] AC 384

Acted for Government in Supreme Court appeal concerning common law and Article 6 fair trial rights for high security prisoners detained in cellular confinement.

R (Rotsztein) v HM Senior Coroner for Inner North London

[2015] EWHC 2764 (Admin)

Acting for claimant in challenge to Coroner's policy on non-invasive autopsies.

R (Hicks) v Commissioner of Police of the Metropolis

[2014] EWCA Civ 3

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R (Sturnham) v Parole Board

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Acted for the Claimant society, representing the Jewish and Muslim communities, to challenge the coroner's policy of refusing to take into account the religious need for speedy burials. Instructed by Asserson Law Offices.

ACHIEVEMENTS

Publications

Sam has edited the Public Law Chapter in Bullen & Leake's Precedents of Pleadings; and the Crown Proceedings Chapter in Halsbury's Laws.

Appointments

- Sam was appointed as a QC in 2011 and a Deputy High Court Judge in 2018. Before becoming a QC, Sam was on the Attorney General's panels of Civil Counsel to the Crown for over 10 years, being appointed to the A Panel, at the earliest opportunity, in 2007.
- Sam sat for several years on the Equality and Diversity Committee of the Bar Standards Board.

Memberships

- Administrative Law Bar Association
- A founder member of the Human Rights Lawyers Association

Selected earlier reported cases

Public & Regulatory

- JG v Lancashire County Council [2011] LGR 090
- R (Cart) v the Upper Tribunal; R (MR) v the Upper Tribunal (Immigration & Asylum chamber) and Secretary of State for the Home Department [2011] UKSC 28
- R (Global Knafaim Leasing Ltd & CGTSN Ltd) v the Civil Aviation Authority and ors [2010] EWHC 1348 (Admin)
- R (Royal College of Nursing) v Home Secretary [2010] EWHC 2761 Admin
- R v Rollins [2010] UKSC 39
- R (Chandler) v Camden LBC and Secretary of State for Children, Schools and Families [2010] PTSR 749
- R (E) v JFS School [2010] 2 AC 728
- R (Wood) v Metropolitan Police Commissioner [2010] WLR 123

Tax

- Carlsberg & Inbev v HMRC [2011] UKUT 195 (TCC)
- Thomas Holdings Ltd v HMRC [2011] UKFTT 656 (TC)
- Banerjee v HMRC [2011] 1 All ER 985
- JT Dove v HMRC [2011] UKFTT 16 (TC)
- Coll v HMRC [2010] STC 1849
- Seabrook v HMRC [2010] EWCA Civ 140
- Burden v UK [2008] STC 1305