

Sarah Wilkinson

“She has strong attention to detail and an inclusive manner with clients”

– LEGAL 500, 2016

Year of call: 2003
Degree: MA Oxon (Modern History) First Class; DPhil Oxon (Modern History); BA (Hons) Oxon (Jurisprudence) First Class
Languages: French (working knowledge)



Sarah has represented the government both as sole and junior counsel in a wide range of high profile judicial review cases. She has also developed a successful advisory practice in regulatory and disciplinary work, advising individuals, government departments and regulators at the highest level. She is frequently led in a wide range of cases in the High Court, Court of Appeal and Supreme Court. She has developed specialisms in immigration, education and NHS law, whilst maintaining an employment law practice principally in discrimination, whistleblowing and employee competition. Most of her time in 2017-18 was occupied with the fifth claim in the Chagos Islanders litigation (see first case summary below) which resulted in four separate judgments in the High Court and Court of Appeal in 2018-19. Before coming to the Bar, she was an academic historian and a Fellow of All Souls College, Oxford from 1996 to 2011.

EXPERIENCE

Public & Regulatory

A former Panel member, Sarah was appointed to the Attorney-General’s B Panel of Counsel in September 2015, having previously been appointed to the C Panel in March 2008.

Sarah has advised individuals, government departments and regulators at the highest level, as sole counsel and as junior counsel. She was instructed in January 2020 as Advocate to the Court of Appeal in a test case on injunctive restraint of public protests. She has developed specialisms in immigration (particularly appellate work), unlawful detention, education and health care and continues to build her practice advising regulators.

She also acts for Claimants and was instructed as junior counsel in a successful challenge to an Ofgem decision in 2018-19; R (Gwynt-y-Mor Offshore Wind Farm Ltd) v Gas and Electricity Markets Authority [2019] EWHC 654 (Admin). Recently, she has been instructed in relation to regulatory complaints and challenges for summer 2020 A Level grades.

“She gets on very well with clients and is very good in a team.”

– LEGAL 500, 2021

She spent much of 2017-9 acting for the Foreign Office in the most recent challenge to UK policy in the Chagos Islands which required her to obtain security clearance and involved an extremely complicated disclosure exercise involving public interest immunity applications and cross-Whitehall liaison.

As a Panel member, she regularly advised government departments on both litigation and policy. She has recently acted for the Home Office, Departments of Education, Health, Justice and DEFRA and has appeared in the High Court, Court of Appeal as sole counsel and as a junior in two Supreme Court cases

Cases

Miller v MoJ

Claim for damages under Article 5 ECHR for lack of provision of overnight resettlement accommodation. Case settled just before hearing, November 2020.

Advising in relation to statutory powers of regulator and Secretary of State

November 2020

with Monica Carss-Frisk QC

R (AB) India v Secretary of State for the Home Department

awaiting listing for Court of Appeal

Sarah is instructed as sole counsel for the Secretary of State in this appeal against a refusal of leave in circumstances which involved potential issues of modern slavery. The hearing to determine permission to appeal to the Court of Appeal has been adjourned and the claim stayed pending a referral to other immigration mechanisms.

AS (Sri Lanka) v Secretary of State for the Home Department

Listed for 3 December 2020, Court of Appeal

Sarah is instructed as sole counsel for the Secretary of State in this appeal which addresses the nature of proportionality claims for Article 8 cases outside the Immigration Rules where the applicant has committed a criminal offence.

Canada Goose UK Retail Ltd v Persons Unknown

[2020] EWCA Civ 303, [2020] 1 WLR 2802, [2020] 4 All ER 575

Sarah was instructed as Advocate to the Court in an appeal against the types of injunctions available against 'persons unknown' to restrain protests. The Court of Appeal gave guidance on the tests to be applied in such cases.

R (Edith Eneanya-Bonito) v Ofsted

2019

Sarah was sole counsel for Ofsted in this unsuccessful application for permission to bring a judicial review claim against an Ofsted inspection of an independent school for special needs. Permission to appeal was refused.

R (National Fostering Agency) v Ofsted

2019-20

Sarah was instructed as sole counsel for Ofsted in this substantive judicial review claim against an Ofsted inspection decision. Case settled at the beginning of lockdown.

R (SSP Ltd) v NHS LA and others

[2019] EWHC 3291 (Admin)

Sarah was instructed as sole counsel for the Secretary of State for Health, as the Second Interested Party. The claim involved the statutory construction of the complex NHS contracting mechanisms for GP medical services.

R (Good Law Project) v Secretary of State for Health and Social Care

[2019] EWCA Civ 1211

Sarah was instructed as junior counsel, led by Sir James Eadie QC, for the Secretary of State in this challenge brought by a crowd-funded NGO against regulations made by the Department of Health to manage drugs in the event of Brexit or any other shortage.

R (Bancourt) v Secretary of State for the Foreign and Commonwealth Office

[2019] EWHC 221 (Admin)

From 2017 to early 2019, Sarah's work was almost entirely focused on this fifth judicial review challenge to UK policy in the Chagos Islands. She is the senior junior in a team of barristers inside and outside Blackstone managing an enormous and complex disclosure exercise across multiple government departments. This challenge involves issues of public interest immunity and the use of special advocates and required Sarah to obtain security clearance. Sarah has also acted as sole counsel for the Foreign Office in one of the interim hearings. The case has so far resulted in four judgments:

[2019] EWCA Civ 1254 - led by Sir James Eadie QC. Permission to appeal to the Court of Appeal hearing.

[2019] EWHC 221 (Admin) (substantive 5 day hearing); led by Sir James Eadie QC

[2018] EWHC 1508 (Admin) – interim judgment; led by Kieron Beal QC

[2018] EWHC 1282 (Admin) – sole counsel in emergency CMC and costs application

R (Gwynt-y-Mor Offshore Wind Farm Limited) v Ofgem

[2019] EWHC 654 (Admin)

Sarah was instructed as junior counsel, led by Sam Grodzinski QC, to the Claimant in this commercial and regulatory JR involving a challenge to the charging methodologies for offshore wind farm operators and developers in the event of under sea cable failures. The Claimant succeeded in its challenge.

Independent counsel for Competitions and Market Authority

2019

Sarah has been instructed as independent counsel to the CMA in an investigation into anti-competitive pricing in the pharmaceutical industry. Her role is to adjudicate claims for legal professional privilege on disclosure seized by the CMA during their investigation. This involves highly detailed scrutiny of a large number of documents, together with process management and liaison and adjudication of competing claims.

Advising Crown appointee on internal complaints investigation

Advising Crown appointee on internal complaints investigation

Advising regulatory body in relation to complaint received about award of status

2019

Sarah was instructed as junior counsel, led by Monica Carss-Frisk QC, to the regulator to draft a pre-action protocol response letter. The issues involved statutory construction and application of the regulatory body's guidance policies.

NI (Nigeria) v Secretary of State for the Home Department

2019

Sarah was instructed as sole counsel for the Secretary of State in this appeal against a refusal of leave for a claimant who had committed an offence with a sentence of 12 months.

Case was settled after advice on complex procedural issues before the Court of Appeal hearing

Immigration advice for the Home Office

Throughout 2018, Sarah has continued to advise the Home Office regularly on immigration issues, particularly on the merits of appeals and in cases involving the deportation of foreign criminals

R (on the application of Forge Care Homes Limited) v Cardiff and Vale University Health Board

[2017] UKSC 56, Times August 24 2017

Acted for the Secretary of State for Health as intervenor in this appeal against the methodology for the funding of nursing in care homes based on the statutory interpretation of primary and secondary legislation (with Clive Sheldon QC).

R (on the application of the Pharmaceutical Services Negotiating Committee) v Secretary of State for Health

[2017] EWHC 1147 (Admin)

Sarah was part of the team acting for the Secretary of State in resisting a challenge to proposed changes to the public funding of pharmacies, involving issues relating to consultation and procedural fairness (with James Eadie QC, Iain Steele, Tom Cleaver).

Article 6 ECHR and EU Directive

Summer 2017

Sarah advised a corporate client on Article 6 ECHR issues in the context of proceedings challenging an EU Directive (with Michael Fordham QC).

AY and SA v Secretary of State for Work and Pensions

[2017] UKUT 80 (AAC), 2 February 2017

Sarah acted for the Secretary of State in two claims relating to the treatment of epilepsy, independent travel and chronic pain in applications for Employment Support Allowance.

R (GBGA) v HMRC and HMT

[2015] EWHC 1863 (Admin), [2016] STC 151, [2015] LLR 829

Sarah acted for HMRC in this case concerning the application of Article 56 TFEU to internal taxation regimes and the constitutional status of Gibraltar in Article 56 disputes (with Kieron Beal QC). It was subsequently referred to the CJEU, Case C-591/15: Judgment of the Court (Grand Chamber) of 13 June 2017 (request for a preliminary ruling from the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) - United Kingdom) - The Queen, on the application of: The Gibraltar Betting and Gaming Association Limited v Commissioners for Her Majesty's Revenue and Customs, Her Majesty's Treasury OJ 2017 C277/7.

R (on the application of Oxford Aviation Services Ltd and others) v (1) Secretary of State for Defence (2) Civil Aviation Authority (3) Secretary of State for Transport

[2015] EWHC 24 (Admin)

Acted for the Civil Aviation Authority in a judicial review concerning civil flights to RAF Northolt.

CJ (Dominica) v Secretary of State for the Home Department

[2014] EWCA Civ 1355

Appeared as sole Counsel for the Defendant and successfully defended this appeal concerning the adequacy of reasons in an automatic deportation case in the Court of Appeal.

NS v Secretary of State for Work and Pensions

[2014] UKUT 149 (AAC)

Acted for the DWP on construction of Employment and Support Allowance.

Sarah has also been instructed on two forthcoming cases on similar issues in September 2016.

Ongoing review work for regulatory bodies

Sarah regularly review reports and procedures for regulatory bodies and advises on investigations and disciplinary proceedings.

Advising in relation to the Trojan Horse investigation

Summer 2017

Sarah advised on issues of procedural fairness in relation to the investigation of some of those involved in the Trojan Horse investigation.

Ongoing immigration claims

Sarah regularly acts for the government in substantive judicial review and in permission proceedings in the Upper Tribunal and Administrative Court in immigration cases. Sarah was recently involved in two section 55 (best interests of the child) claims in the Court of Appeal, which settled.

False imprisonment and unlawful detention cases

Ongoing

Advising Home Office on false imprisonment and unlawful detention cases in an immigration context (particularly with a mental health element).

Ongoing claims relating to prisoner rights to training & security categorisations

Sarah regularly advises the Home Office in judicial review proceedings regarding prisoners rights to training and rehabilitation programmes and security categorisations.

Public procurement advice

Spring 2013

Advised a government department on issues of public procurement with Michael Beloff QC.

Overseas regulatory body: advice on procedures for hearing disciplinary cases

With Lord Pannick QC, Sarah advised an overseas professional regulatory body as to its procedures for hearing disciplinary cases.

Employment

Sarah has been described over the years by the Legal 500 as "an exceptionally bright barrister" (2019) "an impressive and approachable advocate, who provides clear, commercial advice" (2018), "impressive and approachable" (2017). Chambers and Partners described her as "extremely bright" and "a popular choice for discrimination cases" (2012), as "also "a barrister with real potential" (2010) and as "extremely bright and able to assimilate document-heavy cases with apparent ease" (2009).

"Hugely intelligent and determined, and spot-on strategically."

– LEGAL 500, 2021

Sarah has a wide-ranging employment law practice including all forms of employee competition law, discrimination, unfair dismissal, protection from harassment, unlawful deductions from wages, equal pay, fixed term workers regulations, part time workers regulations and whistleblowing. She acts for both claimants and respondents and has a particular interest in cases involving discrimination, financial services and education. She has experience of both obtaining and resisting injunctive relief in restrictive covenant cases in both the QB and Chancery Divisions.

Cases

Instructed as sole counsel in high value finance sector unfair dismissal and age discrimination case

2020

Awaiting case management.

Sole counsel in maternity discrimination and redundancy claim in the hospitality sector

2020

Listed for 4 day hearing in September 2021

Instructed as sole counsel for Respondent in a high value international race discrimination case

2020

Listed for 7 day hearing in May 2021

Interim injunctions to enforce non-compete clauses

May 2016 - present

Sarah regularly advises potential defendants to an interim injunction application on the enforceability of non-compete clauses. She also advises Claimants which to make applications for interim relief.

Advising in relation to the Trojan Horse investigation

Summer 2017

Sarah advised on issues of procedural fairness in relation to the investigation of some of those involved in the Trojan Horse investigation.

Nolan v United States of America

[2015] UKSC 63, [2016] AC 463, [2015] 3 WLR 1105, [2016] CMLR 42, [2015] ICR 1347

Appointed as amicus to the Supreme Court on the application of section 188 TULRCA to visiting forces in the UK, (with Michael Beloff QC), involving complex questions of statutory interpretation and state immunity.

Mr. J Abboushi v EuropeArab Bank Plc

May 2016

Sole counsel for the Respondent in a 6 day unfair dismissal case involving private banking practice and contested expert evidence.

First Rate v Trading By Telephone

[2014] EWHC 983 (QB) and [2014] EWHC 2386

Represented seven Defendants in a High Court restrictive covenant injunction case involving foreign exchange.

City whistleblowing and constructive unfair dismissal - brokerage

2015-2016

Acting for a claimant in a high value City whistleblowing and constructive unfair dismissal claim (with Jane Mulcahy QC).

City whistleblowing case - asset management

Autumn 2014 – May 2015

Acted for Claimants in a very high value City whistleblowing case (with Tom Croxford). Case settled on first day of hearing.

City disability discrimination - asset management

2013

Acting for Claimant in a high value City disability discrimination and victimisation claim - settled on first day of tribunal.

Disability discrimination & unfair dismissal - teaching

2014-15

Representing a claimant teacher in an Employment Tribunal claim for disability discrimination and unfair dismissal. Case settled on first day of hearing.

Pro bono whistleblowing claim - care home

Won appeal for pro bono client in EAT on whistleblowing in a care home setting (through ELAAS and FRU schemes).

Commercial

Sarah advises in commercial cases for both claimants and defendants, including government departments, on a very wide range of issues including sale of goods, supply of services, unfair contract terms, negligence, breach of contract, breach of fiduciary duties, conversion and restitutionary remedies in a wide range of commercial settings. She has acted as sole counsel in multi-track trials and has appeared in summary judgment applications, applications for permission to appeal, a winding-up petition and in a petition for bankruptcy.

Cases

Winding-Up List, Companies Court

2014

Acted as HMRC devil for the winding-up list in Companies Court.

Advised on private law claims for a theatre in dispute with a local authority

Spring 2014

Advised on contractual and tortious remedies available to a provincial theatre in dispute with a public authority and agency.

Advising on contract between parents and an independent school

January 2013

Advised on the interpretation of a contract between parents and a private school.

Breach of covenant & breach of directors' duties - advice

December 2012

Represented respondents in a multi-party dispute as to breach of covenant, and breach of directors' duties - case settled

Financial Services

Sarah advises on a wide range of financial services issues, often through the prism of employment law.

Cases

Stock Exchange Listing Rules

December 2012-May 2013

Advised an overseas regulator as to interpretation of stock exchange listing rules and application of local law to corporate sharedealings (with Javan Herberg QC).

Mis-selling of pensions - advice

December 2012

Advised on potential mis-selling of pensions and redress under Ombudsman and FSA schemes.

Financial Services Authority Investigation

In her first few years of practice, Sarah was heavily involved in a large investigation for the Financial Services Authority for two years working as a member of a team with other members of chambers.

ACHIEVEMENTS

Education

MA Oxon (Modern History) First Class; DPhil Oxon (Modern History); BA (Hons) Oxon (Jurisprudence) First Class

Prizes & Scholarships

- Fellowship by Examination, All Souls College, Oxford, 1996-2003
- £50 Fellow, All Souls College, Oxford, 2004-2011
- Wronker Prize for Administrative Law (Oxon)
- Bedingfield and Arden Scholarships, Gray's Inn

Publications

- 'Queues and Consultation: fairness and market power at the London Metal Exchange' *Butterworth's Journal of International Banking and Finance Law* 2015 30(1) 25-27.
- With Robert Howe QC, Diya Sen Gupta and Simon Pritchard, chapter 3 'Confidentiality' in *Employee Competition* (2nd edition 2011 and 3rd ed., forthcoming OUP 2015).
- With other authors in chambers and from Baker & Mackenzie LLP, *Tolley's Discrimination in Employment Law Handbook* (2008 and 2nd ed., 2011).
- With Tom Beazley QC and Javan Herberg, 'Financial Services Investigations' in *Montgomery & Omerod (eds.) Fraud: Criminal Law and Procedure* (OUP, 2008).
- With Gemma White and Robert Weekes, *Pre-Action Procedure and (alone) Procedural Table for Judicial Review Claims in Lang (ed.), Administrative Court: Practice and Procedure* (Sweet and Maxwell, 2006).
- Sarah edited the UK case section of *Sweet & Maxwell's 'Human Rights Alerter'* from 2005-2008.
- Focus on Article 1 ECHR in *Judicial Review* (December 2004)
- The concept of the state in Britain, 1880-1939 in *Modernism: a concise companion* (ed.) David Bradshaw (Blackwell, 2003)

Membership

- ELA
- ELBA
- ALBA

Selected Earlier Reported Cases

Employment

- Obtained injunctive relief for Respondents in technology-based employee competition case involving database rights (Summer 2013).
- High value claim for constructive dismissal (Spring 2013).
- Representing Claimant in a case for contractual sick pay (Spring 2013).
- High value disability discrimination case involving duty to make reasonable adjustments which settled after judicial mediation (Summer/Autumn 2012).

- High value sex and pregnancy discrimination case in a City context (Summer/Autumn 2012).
- Pregnancy discrimination and constructive unfair dismissal case involving transitional provisions under the Equality Act 2010 (Spring 2011).
- *Pervez v Macquarie Group Limited* UKEAT/2205232/2009, [2011] I.C.R. 266; [2011] I.R.L.R. 284.
- Age discrimination and constructive unfair dismissal case for a firm of solicitors (2010-2011).
- Sex discrimination and discrimination for a pregnancy-related reason for a TV production company. Case settled (2010).
- *Mulugueta v Xerox Ltd* (2009).
- *Parmar v Eli Lilly & Co Ltd* (2009).
- *Maynard v Canalside Housing Association* (2009).
- High value whistleblowing and collective redundancy claim against a leading American investment bank. Case settled, (2008).
- *Libby Assassi v University of Sussex* (2008)
- *Force One Utilities Ltd v Mr. K. Hatfield* UKEAT/0048/08 (2008)
- *Miss T Agu v ROC UK Limited* UKEAT/0325/07/LA (2008)
- *Reichell v Frost v Sullivan Ltd* (2008).
- High value City whistleblowing case for Claimant. Settled. (2007) (with Tom Croxford).
- High value sex discrimination case on behalf of a venture capital house (2007) (with Tom Croxford).
- In November 2007, she provided advocacy training for the Employment Lawyers
- *Colin Wellicome v Service Underwriting Management Limited* (2007)
- *McNally v Commissioner for Metropolitan Police* (2007)
- *Nzeribe v World Duty Free* (2007)
- *Langley and Carter v Burlo* [2007] ICR 390

Public & Regulatory

- Advised on human rights aspects of bringing a stay in criminal proceedings in the Cayman Islands. (2010)
- *R (on the application of easyJet Airline Co. Ltd) v Civil Aviation Authority* [2009] EWHC 1422 (Admin)
- *R (on the application of Primary Health Investment Properties Ltd) v Secretary of State for Health* [2009] EWHC 519 (Admin)
- *Ogunbemile v Secretary of State for the Home Department* (2008)
- *R (Brown) v (1) Department for Secretary of State for Work and Pensions (2) Secretary of State for Business, Enterprise and Regulatory Reform and (3) The Royal Mail Group Ltd* (2008)
- On constitutional issues, Sarah was instructed with Jeffrey Jowell QC in a series of judicial review actions in Malawi, considering the alleged constructive resignation of the Vice President.
- *Hoyte v Information Commissioner* EA/2007/0101
- *R (Islamic Human Rights Commission) v Secretary of State for Foreign and Commonwealth Affairs and others* [2006] EWHC 2465 Admin.

Commercial

- Wigan Athletic Football Club v Greater Manchester Police [2007] EWHC 3095 (Ch)
- Junior counsel to Adam Lewis QC of Blackstone Chambers in Wigan Athletic's challenge to statutory charges levied by Greater Manchester Police in a case which spanned both private and public law issues in a two-week trial in the Chancery Division followed by a successful appeal to the Court of Appeal [2008] EWCA Civ 1449 [2009] 1 WLR 1580.
- Two high value civil fraud cases as junior obtaining freezing injunctions and search orders in relation to breach of fiduciary duty, deceit, breach of contract and conversion (with Tony Peto QC).
- McShane v Polynesian Adventure Tours Ltd (2009)
- Daffyd Ellis v Alfred McAlpine (2009)
- Universal Leasing v The Wedding Planner (2008)
- Lombard North Central Plc v Mercer (2006)
- Lombard North Central Plc v Lewis (2006)

Other Relevant Information

Sarah was a Fellow of All Souls College, Oxford from 1996-2003 and from 2004-June 2011. Before coming to the Bar, she completed a doctorate entitled 'Perceptions of Public Opinion. British Foreign Policy Decisions about Nazi Germany' in 2000 and taught British and European twentieth century history at the universities of Oxford and Reading.

She is a member of the ELAAS scheme and undertakes pro bono work through the Bar Pro Bono Unit and FRU.

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