OLD SQUARE CHAMBERS

James Chegwidden

CALL: 2008



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Overview

James Chegwidden practices in employment and discrimination law, judicial review, military law, and the regulation of professional misconduct. He brings to his practice a wide range of domestic and international experience, having worked in London, Strasbourg, Australia and in delegations to the United Nations. Prior to call to the Bar, James worked as an Associate to Mr Justice Michael Kirby AC CMG of the High Court of Australia. He was appointed Attorney General's Counsel to the Crown (C and B Panels) in 2013 and acts regularly for governmental agencies, including the Cabinet Office, Ministry of Defence and the Foreign and Commonwealth Office.

James additionally acts in the private sector for a range of corporate clients, individuals, and charities. He is a registered provider on the Bar Public Access Scheme and is a panel member of the National Bar Pro Bono Unit. He speaks fluent French, advanced German and Spanish, and intermediate Polish.

Awards:

- Attorney General's Counsel to the Crown (2016-2023)
- Nursing and Midwifery Council – Approved Counsel
- Peter Duffy Human Rights Scholar (Lincoln's Inn)
- Lord Mansfield Scholar (Lincoln's Inn) Lord Hardwicke Scholar (Lincoln's Inn)
- Shelford Scholar (Lincoln's Inn)

Memberships:

Employment Law Bar Association

Human Rights Lawyers Association

Lawyers for Liberty

Education:

Inns of Court School of Law
Bar Vocational Course 2007-2008 Rank: "Outstanding"

University of Oxford
Bachelor of Civil Law (BCL) – 2005-2006 Magdalen College, Oxford

University of Sydney
Bachelor of Laws – 2001-2004 Hons First Class

Administrative & Public Law

James' practice focuses principally on judicial review challenges. James is frequently instructed by government agencies including the Home Office, the Cabinet Office, the Ministry of Defence and the Ministry of Justice in defending judicial review claims brought against them, as well as by private individuals seeking to challenge government decisions.

Cases in which James has recently advised or acted include:

R (Stopwatch) v Sec'y State Home Department [2021], a judicial review challenge to the relaxation of safeguards on police stop and search procedures (withdrawn prior to hearing);

Expertise

- Administrative & Public Law
- Civil Liberties and Human Rights
- Employment & Discrimination
- Professional Regulatory & Discipline

Recommendations

"James is a persuasive, modest and level-headed advocate." Legal 500 2026

"His written arguments are excellent and he has a way of marshalling complicated issues with tremendous force." Legal 500

Key contacts

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Advice in 2022 to a major corporate regulator on the proper interpretation of Part 35 of the *Companies Act 2006*;

R (Wildbur) v Sec'y of State for Defence [2016] EWHC 1636 (Admin), a judicial review by a former army captain of the lawfulness of his redundancy provision;

R (Huang) v Sec'y of State for Business Innovation and Skills EWHC (Admin) on a challenge to the employability of aliens within the British civil service under the *Aliens Employment Act 1955*;

R (Rasool) v Tower Bridge Magistrates' Court [2013] EWHC 4736 (Admin) successfully resisting a challenge to the Food Hygiene (England) Regulations 2006 imposing criminal and civil sanctions on food business operators. James also acted in 2015 for an NHS surgeon in his judicial review challenge to the NHS selection and appointment process for long-term surgical training positions.

Employment & Discrimination Law

James represents a wide variety of claimants and respondents in the Employment Tribunal, the Employment Appeal Tribunal and the High Court in employment disputes. He advises and has litigated in court for major government entities including the Cabinet Office, the Ministry of Defence, the Ministry of Justice, the Home Office, Foreign and Commonwealth Office and the Registrar of Companies. He has acted for corporate and other private clients including the University of Leicester and the Motorola Group, as well as for individuals and several unions in claimant-based work.

James is an experienced advocate in:

- Unfair and wrongful dismissal claims
- Discrimination and Equality Act 2010 claims
- Restrictive covenant claims
- Redundancy claims
- National Minimum Wage disputes
- TUPE (transfer of undertakings) disputes
- Unlawful wage deduction claims
- Armed Forces Service personnel and Service Complaint claims
- Reserve Forces Appeal claims
- Tribunal jurisdiction and procedural disputes.

Notable recent cases include:

Chauhan v University of Leicester [2023] EAT 112: James acted for the respondent University, successfully resisting an appeal involving the correct approach to interpreting Unless Orders in the Employment Tribunal and a challenge to the judge's understanding of the Unless Order discretion;

Rubery v Ministry of Defence (2022, ET), currently under appeal in the EAT, on the jurisdiction of the Employment Tribunal to adjudicate discrimination claims arising from the Armed Forces' service complaint process;

T v Ministry of Defence (2021) on whether a procedural bar to service personnel bringing employment claims violated Art 8 and 14 of the European Convention on Human Rights and required reading down under the Human Rights Act 1998;

Bogdan v Cabinet Office (2022), now under appeal in the EAT, in which James successfully defended the Cabinet Office in a two-week trial by a senior civil servant alleging institutional discrimination against her on race grounds in wage and promotion patterns;

Kerton v Morris (2022), a Reserve Forces Appeal Tribunal appeal concerning a reservist's remuneration while deployed remotely in response to the Covid-19 pandemic.

A sample of previous cases include:

RSS Wessex (Rubicon People) v Dawson [2013] EWHC 2309 (QB), in which James obtained a High Court interim injunction in unusual circumstances against a former recruitment manager alleged to be competing with his former employer via LinkedIn networking;

Rawson v Robert Norman Associates UKEAT/0199/13/RN on the correct approach to determining liability and remedy in employer's breach of contract claims in the Employment Tribunal;

Ségor v Goodrich Actuation Systems UKEAT/0145/11/DM in which James successfully acted pro bono for a claimant working in the military technology industry alleging nationality discrimination, in an appeal determining the correct approach for tribunals where party seeks (or appears) to abandon a part of its claim.

Civil Liberties and Human Rights Law

James is a keen advocate for human rights. As Attorney General's Counsel to the Crown (B and C Panels) between 2013 and 2023, James has regularly (see below) advised on human rights issues in UK courts, particularly as to the protections offered by the European Convention for Human Rights.

Prior to call to the Bar, James was Associate at the High Court of Australia to Mr Justice Michael Kirby AC CMG, Australia's foremost human rights advocate. James has previously been named the Peter Duffy Human Rights Scholar of Lincoln's Inn, and has worked at the European Court of Human Rights, Strasbourg as *avocat stagiaire* for the UK Division of the Court.

Cases in which James has acted and advised include:

Re G [2023] ET: in the case of a service user with dyslexia, whether public service providers may be required under s.20 Equality Act 2010 to complete statutory forms on behalf of said users where such duties were non-delegable (claim discontinued prior to judgment);

Rubery v Ministry of Defence [2022] ET (EAT appeal pending in 2024): whether current legislative bar on armed service personnel bringing claims for discrimination in Employment Tribunal compatible with ECHR Articles 6 (fair trial) and 14 (non-discrimination);

R (Stopwatch) v Sec'y State for Home Dept [2021]: challenge to the Home Secretary's decision to remove safeguards on nation-wide police stop and search procedures under s.60 of the CJPO Act 19894 (withdrawn prior to hearing);

Tilindyte v Sec'y of State for Home Dept [2017]: Advice on compensation claim for unlawful detention by victim of human-trafficking to the UK, arising from alleged unreasonable delay in determining her trafficked status and release from detention in compliance with domestic guidance and European Convention on Action Against Trafficking;

Re L and B (minors) [2016] EWHC 849 (Fam). James acted pro bono for the mother of two young boys whose father sought to obtain court approval for their forcible circumcision on grounds of his religious beliefs. The Court refused on autonomy grounds to allow circumcision to take place in such circumstances, ruling that the decision should wait until the boys could make it themselves;

Re Dvorzak [2015]– A coroner's inquiry into the death in UK immigration detention of a Canadian senior citizen with mental health difficulties within weeks of his arrival in the United Kingdom. James acted for the Home Office;

R(Hassan) v Secretary of State for Defence – A judicial review challenge to the interrogation protocols of British Army units while deployed in Iraq during UK operations in the second Iraq war. James was instructed by the Ministry of Defence;

AA v United Kingdom 8000/08 ECHR 1345; INLR 1 – Case asserting Article 8 rights to privacy and home life of a foreign national convicted of a serious crime while under 18 and threatened with deportation, where indefinite leave to remain had already been granted.

Professional Regulatory & Disciplinary Hearings

James is a specialist advocate in the area of professional misconduct and discipline. James regularly acts as advocate in professional misconduct tribunals (especially for the Ministry of Defence Police); as counsel for the Home Office in employer appeals under s.17 of the *Immigration Asylum and Nationality Act 2006* (illegal employment practices); and has acted for the Immigration Services Commissioner in prosecuting immigration advisers operating illegally or providing unlawful services.

James has appeared in two Court of Appeal matters concerning the correct interpretation of Part One of the *Immigration Asylum and Nationality Act 2006*, see *Sec'y of State for Home Dept v Akbar* [2017] EWCA Civ 16 and *Yadly* [2016] EWCA Civ 1143. James successfully represented the Ministry of Defence Police in a two-week long disciplinary hearing concerning police misconduct in Scotland involving an officer's discriminatory conduct towards fellow police officers.

James has successfully advised and acted for individuals in the teaching and medical professions in professional conduct disputes between the individual and their employer or regulator.

Notable Cases

- *Rubery v Ministry of Defence* [2022] ET 3312963/2021: James acted for the Ministry of Defence on the issue of the jurisdiction of the Employment Tribunal to adjudicate certain discrimination claims arising from the Armed Forces' service complaint process; compliance of domestic regime with ECHR Articles 6, 8 and 14; applicability of general principles of the interpretation of EU law following EU Withdrawal Act 2018 (currently on appeal to EAT);
- *Bogdan v Cabinet Office* [2022] ET 3202270/2020: now under appeal in the EAT, in which James successfully defended the Cabinet Office in a two-week trial by a senior civil servant alleging institutional discrimination against her on race grounds in wage and promotion patterns;
- *Kerton v Morris* [2022] RFAT 04/21, a Reserve Forces Appeal Tribunal appeal concerning a challenge to a reservist's proper remuneration while the reservist was deployed remotely in response to the Covid-19 pandemic;
- *R (Stopwatch) v Sec'y State for Home Dept* [2021]: challenge to the Home Secretary's decision to remove safeguards on nation-wide police stop and search procedures under s.60 of the CJPO Act 19894 (withdrawn prior to final hearing)
- *Re L & B (minors)* [2016] EWHC 849 (Fam) – James acted pro bono for the mother of two young boys whose father sought to obtain court approval for their forcible circumcision on grounds of his own religious beliefs. The Court refused, on autonomy grounds, to allow circumcision to take place in such circumstances, ruling that the decision should wait until the boys could decide the question for themselves.
- *R (Wildbur) v Secretary of State for Defence* [2016] EWHC 1636 (Admin) – James successfully resisted, on behalf of the Ministry of Defence, a claim for over half a million pounds in compensation by a former army officer wrongly made redundant by administrative error, but who was offered reinstatement on terms which would restore him as fully as possible to army life
- *RSS Wessex (Rubicon People) v Dawson and others* [2016] EWHC 2309 (QB). James obtained a High Court injunction in novel circumstances against a former recruitment company manager alleged to be competing with his former employer's business and/or soliciting or dealing with clients via the use of networking on the website LinkedIn.

Professional Recommendations





James Chegwidden