

Paul Draycott



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Profile

Paul is ranked in Chambers and Partners and Legal 500 2023 guides. He has been described as *‘having a strong asylum and immigration practice, with recent highlights including a successful judicial review against a Home Office decision to revoke indefinite leave, which was the third such case undertaken for the same claimant’, as well as also recently representing ‘a claimant in (a judicial review) challenging a court fee charged by Liverpool County Court during a low-value personal injury claim, which had been overcharged by almost 50% and which may affect large numbers of similar claims’.*

The bulk of his practice broadly concerns judicial review claims concerning immigration related issues, particularly fresh claims, the certification of asylum or human rights claims, R(Cart) challenges to the Upper Tribunal’s refusal of permission to appeal, the revocation of indefinite leave to remain, the Dublin III Regulation, the Turkish European Community Association Agreement, unlawful detention, age assessment, as well as disciplinary related claims against Public Authorities under the Human Rights Act 1998, such as his previous case of *R(G) -v- Governors of X School* (2012) 1 AC 167 SC.

Paul also regularly appears in appeal proceedings before the First Tier and Upper Tier Tribunals of the Immigration and Asylum Chamber, concerning ‘protection’, ‘human rights’

and EEA related grounds, and has a particular interest in claims brought by unaccompanied children and Palestinian Appellants, having appeared in HS(Palestinian – return to Gaza) Palestinian Territories CG [2011] UKUT 124 (IAC).

As Paul practiced employment law as an in-house advocate with a Trade Union firm of solicitors, prior to joining the Bar, he also represents employees and trade unions before Employment Tribunals and the Employment Appeal Tribunal, particularly in respect of claims of unfair dismissal with a human rights angle, as recognised by the Legal 500 2020 Guide (*‘(Paul) ... is particularly prominent in cases which overlap with issues covered by the European Convention On Human Rights’*).

As Paul also worked as a Welfare Benefits Advisor in the past, he represents Appellants before the First Tier Tribunal (social security and child support) in relation to claims for a wide range of benefits, as well as providing representation before the Upper Tribunal (Administrative Appeals Chamber).

Related practice areas

Immigration

Employment, Discrimination and Equality Law

Publications

"*Extending legal aid to tribunals*" by Paul Draycott and Steve Hynes (Director of LAG) - first published in Legal Action June 2007 and reproduced in Adjust Newsletter December 2007

Other Activities

Member of ALBA, Amnesty International, the Industrial Law Society, Child Poverty Action Group and the UNHCR panel of pro-bono Counsel

Provides regular seminars on employment law (for the Institute of Employment Rights) and immigration law

Delivered comprehensive training to EHRC (Equalities and Human Rights Commission) on conducting Judicial Review proceedings

Pro bono work on behalf of Fulham Legal Advice Centre

Equality and Discrimination

Paul regularly represents employees and trade unions before Employment Tribunals, the Employment Appeal Tribunal and County Court in relation to claims of unfair dismissal, unlawful detriment, Wages Act, breach of contract, breach of collective consultation rights, trade union rights, equal pay and discrimination. Advisory work with trade unions and members.

Immigration Asylum and Personal

Paul is experienced asylum and immigration practitioner with a particular interest in claims involving principles of EU immigration law.

Housing and Social Welfare

Representation of claimants before disability, social security and medical appeals tribunals in relation to claims for a wide range of benefits, as well as representation before the Social Security Commissioners.

Notable Cases

- **IR(Morocco) v Secretary of State for the Home Department** [2015] Imm AR 1 CA (Asylum case concerning the level of causation that an Appellant must establish between the serious harm they will face in their country of origin and a convention reason under the 1951 UN Convention for the purposes of Article 4(4) of the Qualification Directive)
- **R(AA(Iran)) v Secretary of State for the Home Department** [2013] EWCA Civ 1523 CA (Asylum case concerning the effect of a grant of permission by the Administrative Court in a R(Cart) judicial review and the legal consequences arising from the Secretary of State's failure to trace an Appellant's family in their country of origin contrary to Article 19(3) of the Reception Directive)
- **Turner v East Midlands Trains Limited** (2013) 3 All ER 375 CA, [2013] ICR 525 CA(Unfair dismissal case in which the Appellant argued that the band of reasonable

responses test which is applied to all such claims was in breach of Article 8 ECHR 1950 and should be replaced by a proportionality test instead)

- **R(Negassi & Lutalo) v Secretary of State for the Home Department** [2011] ACD 118, (2013) 2 CMLR 45 CA (Judicial review claim concerning whether the Claimant had a right to work pending determination of his asylum case under Article 11(1) of the Reception Directive and what relief should be granted if this right had been breached)
- **HS (Palestinian – return to Gaza) Palestinian Territories CG** [2011] UKUT 124 (IAC) UT (Country guidance asylum and human rights case on the legal consequences of the Israeli Authorities' policy to refuse entry to Gaza to Palestinians who are not listed on the Israeli Population Registry)
- **Copple v Littlewoods Plc** [2011] ICR 296 EAT, [2012] 1 CMLR 36, [2012] ICR 354 CA (An appeal concerning what relief should be granted under EU law to the Claimants in a substantial equal pay multiple who had been excluded from their employer's pension scheme due to their part time status)
- **Secretary of State for Work and Pensions v Deane** (2011) 1 WLR 743 CA (Secretary of State's appeal concerning the appropriate interpretation of 'full time education' in respect of the Claimant's application for carer's allowance)
- **R (on the application of G) v Governors of X School** [2009] All ER (D) 181 (Mar), [2009] EWHC 504 (Admin); The Times April 24, 2009, (2010) 1 WLR 2218 CA; (2012) 1 AC 617 SC (a judicial review claim concerning an employee's right to legal representation in employment disciplinary proceedings under Article 6(1) ECHR 1950, which if upheld were likely to result in a section 142 direction being made by the Secretary of State thereby preventing the Claimant from ever working with children again)
- **IH (Section 72; 'particularly serious crime') Eritrea** [2009] IJRL 308 AIT, [2009] UKAIT 00012 AIT (Asylum case involving a hearing by a presidential panel as to whether the statutory presumptions under section 72 NIAA 2002 concerning whether an Appellant has committed a particularly serious crime are compliant with the requirements of the Qualification Directive)
- **Charlton v Secretary of State for Work and Pensions** [2009] EWCA Civ 42 CA (Incapacity benefit appeal concerning the risk arising from the Appellant's alcoholism if he was required to work)

- **Kola & Mirzajani v Secretary of State for Work & Pensions** [2007] All ER (D) 425 (Nov), [2007] UKHL 54, R(IS) 1/08, [2007] 151 SJLB HL (Income support case concerning whether the Appellants, who were seeking international protection in the UK had claimed asylum "on arrival" to the UK)
- **Hospice of St Mary of Furness v Howard** [2007] EOR 170 - November 25; [2007] IRLR 944 EAT (practice and procedure and case management concerning disability discrimination claims)
- **Wilmot and others v Selvarajan** [2007] All ER (D) 163 (Oct) EAT (unfair dismissal; statutory procedure; delay between lodging and hearing of employees' appeals)
- **Jackson v Wigan MBC** [2007] All ER (D) 328 (May) EAT (the relevance of statutory guidance issued under the Education Act 2002 to unfair dismissal claims)
- **Forest Mere Lodges v (1) Watt and (2) Cameron** [2007] All ER (D) 61 (Feb); [2007] UKEAT 0426_06_0602 EAT (whether the claimants were employees for the purposes of an unfair dismissal claim – succeeded in ensuring that the respondent's appeal was dismissed)
- **Tsfayo v UK** [2006] All ER (D) 177 (Nov); (2009) 48 EHRR 18 ECtHR (This important Strasbourg cases concerned whether a Housing Benefit Review Board was an independent and impartial tribunal for the purposes of Article 6 ECHR 1950 and if not, whether the availability of judicial review was sufficient to correct the same)
- **Knapton and ors v ECC Card Clothing Limited** [2006] ICR 1084; [2006] IRLR 756 EAT; [2006] IDS Brief 806/2006;9, UKEAT/0664/05/MAA EAT (unfair dismissal - early pension payments - compensatory awards)
- **Mendes Machado v Secretary of State for the Home Department** (2005) 2 CMLR 43, CA (Deportation order issued to illegal immigrant who had then married EU national - Denial of residence rights on grounds of public policy).
- **ECC Card Clothing Limited v (1) Mr M Knapton, (2) Mr Van Bellen, (3) Mr A Daniel** [2005] UKEAT/0361/05/DA EAT (Respondent's appeal against the Employment Tribunal's decision in favour of the Claimants on liability)
- **Gina Goldwater v (1) Miaguard National Security Ltd (2) Elite Security (UK) Ltd (3) Dean Hudson** [2005] EOR No. 144 - August ET (pregnancy dismissal/sex discrimination case - injury to feelings award £12,000, aggravated damages £8,000 (2004's highest award in a Sex Discrimination claim), costs order against the

Respondents £10,000).

- **Roberts v Fisher Gauge Ltd** [2004] EOR No.132 – August ET (disability discrimination case - non-pecuniary loss of £21,000.00 was awarded)
- **Khalid Akram v (1) Chorley & South Ribble NHS Primary Care Trust 2) Denise Frisby** Casr No: 2405311/2003 (long running race discrimination case)
- **Spence v Manchester United Plc** [2004] UKEAT/0285/04/TM
- **UNIFI v Stella Massey** [2004] UKEAT/0223/04 judgment
- **Groves v AstraZeneca UK Ltd** [2004] UKEAT/0232/04/MH
- **Royal Mail Group Plc v Spence** [2004] UKEAT/0992/03/RN
- **Harries & Simpson v (1) Alan Paine Knitwear (2) J. Carty (3) Islecroft Ltd** [2004] UKEAT/0012/04/SM
- **Lewis v Corus Group Ltd** [2003] EAT/0026/03/MAA