

Jamie Burton



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Profile

Jamie is a human rights and discrimination specialist who advocates for social and economic justice.

Head of Chamber's Community Care and Health Team, Jamie is a leading authority on health and social care, homelessness, the Care Act 2014 and the rights of disabled people, children and migrants. He is an expert in judicial review and regularly appears in the higher courts, including the Supreme Court.

Jamie acts in human rights, tort and contract claims involving public authorities and private parties. He is particularly well known for bringing civil claims against the police on behalf of victims of crime.

He is regularly instructed by charities and NGOs and is on the Equality and Human Rights Commission's A Panel of counsel. He also advises public authorities on their policies in relation to their statutory and human rights obligations.

In the Grenfell Tower Public Inquiry Jamie acted for various bereaved, survivors and residents affected by the fire.

Internationally, Jamie has undertaken work in Europe, India, Bangladesh and Zimbabwe.

Jamie is an accomplished public speaker. He has given lectures on human rights law, judicial review and social justice. Recently he has been invited to address conferences organised by Reb Law, Legal Action Group, Lawyers Without Borders, The Commonwealth Human Rights Initiative, Reb Law, the Public Law Project, Housing Rights Watch, FEANSTA, SOAS and the International Commission of Jurists.

He has written on human rights, public and housing law. Most recently he co-authored "Children in Need", published by LAG (see [here](#)) and Butterworths' PI Litigation Service, Division XXIV 'Liability of Public Authorities' (see [here](#)).

Jamie is also Chair and co-founder of '**Just Fair**', a registered charity that works exclusively on human rights issues, particularly economic, social and cultural rights. Just Fair has had a significant impact on the public debate on human rights in the UK. It has produced several landmark reports on the housing crisis, food poverty and disability rights. Jamie represents Just Fair at the UN and in 2016 he will make submissions to the UN Committee on Economic, Social and Cultural Rights about the UK's compliance with its human rights obligations.

Jamie is recognised by both **Chambers and Partners** and **Legal 500** as a leader in Public/Administrative law, Human Rights and Civil Liberties, Community Care, Police Law and Social Housing:

"He is a legal superstar in the making and incredible at his job."

"He is brilliant – he represents the high-water mark of what a client can expect from their advocate."

"He's gone really above and beyond what he would have been required to do. His advocacy was fantastic - even the other side said they thought he was absolutely wonderful."

"Very knowledgeable and a good communicator. He is able to make very astute tactical decisions, and his advocacy skills are really impressive."

Has a very good legal brain. He always makes time to talk things through and you always know exactly what you're getting. Exceptional every time."

"Tireless, thorough and compassionate. More impressive than the opponent's QC. He is open to putting difficult arguments forward, which I find is a quality that not all barristers have."

"He is razor-sharp and incredible with clients - honest and realistic but incredibly sympathetic."

"Particularly skilled in public law and policy challenges."

"He has encyclopaedic knowledge of social care law and he's in all the big cases."

"An absolute authority on failure to investigate claims."

Related practice areas

Administrative & Public Law

Housing, Social Welfare & Property

Community Care and Health

Actions Against the Police and Public Authorities

International Law & Arbitration

Anti-Trafficking

Data Protection and Information Law

Children's Rights Group

Clinical Negligence, Personal Injury & Product Liability

Discrimination

Administrative and Public Law

The breadth of Jamie's public law work is considerable. He has acted in many cases concerning the provision of support and/or accommodation to vulnerable groups in society and has a thorough understanding of central and local government's responsibilities in all areas of the welfare state. He regularly advises on NHS continuing care, clinical provision, community care (including charging), clinical provision, children services, welfare benefits, homelessness, housing allocations and asylum support. He has been acted in numerous commercial JRs and advises public and private parties about public law disputes including around public procurement and the Public Contracts Regulations 2015.

National Union of Professional Foster Carers (NUPFC) v. Certification Officer Court of Appeal

Foster carers are not permitted worker status and have their unions formally listed. They sought to persuade the courts that this amounted to unlawful discrimination under Article 14. Jamie acted on behalf of the intervenor, the European Children Rights Unit.

R (Joint Council for the Welfare of Immigrants) v. Secretary of State for the Home Department [2020] Court of Appeal – judgment pending

The Government's scheme banning landlords from renting to undocumented migrants was declared to be incompatible with Article 14. Judgment is awaited on the Secretary of State's appeal. Jamie acts for the Claimant, led by Phillippa Kaufmann QC.

R (DA/DS) v. The Secretary of State for Work and Pensions & Equalities Human Rights Commission & Shelter & Just Fair 2019] 1 WLR 3289 Supreme Court

These appeals challenged the Government's flagship reform to social security, the "benefit cap", which placed a single cap on all benefits a recipient can receive irrespective of their level of need.

Jamie acted as lead counsel for the Second Intervenor, Just Fair. Dan Clarke is junior counsel.

Ward v. Borough of Poole [2019] – awaiting trial

Jamie acts pro-bono for Ms Ward (instructed by Liberty) in her challenge to local bylaws that outlaw rough sleeping and begging.

R(AA) v. Rotherham BC [2019] EWHC 3529 (Admin)

This was a challenge to the closure of a day care centre in Rotherham that had previously been used by many disabled people. The case concerned the common law on consultation.

R (Liberty) v. Director of Legal Aid Casework [2019] 1 WLR 5185

Jamie acted for Liberty in this challenge about access to legal aid for homeless persons criminalized by Public Spaces Protection Order. The case raises serious issues about access to justice, civil liberties and human rights. Angela Patrick is junior counsel.

Seepersad (A Child) v Ayers-Caesar [2019] UKPC 7

The Privy Council dismissed an appeal against the decision of the Caribbean Court of Appeal which maintained the detention of a minor in an adult's prison. Jamie was junior counsel to Richard Clayton QC and Anand Ramlogan SC.

R (Gullu) v. London Borough of Hillingdon & Equality and Human Rights Commission [2019] PTSR 1738 Court of Appeal

This case concerned discrimination against refugees in the provision of public housing. It raises important issues about the extent to which residency requirements can be applied to

refugees who by definition cannot choose which country they live in. Jamie successfully appealed to the Court of Appeal.

R. (on the application of Underwritten Warranty Co Ltd (t/a Insurance Backed Guarantee Co)) v FENSA Ltd [2017] EWHC 2308

Jamie acted for the successful Defendant in a commercial judicial review arising out the Defendant's status as a Competent Persons Scheme. The Claimant maintained that the Defendant's decision making was unlawful and motivated by the commercial interests of its parent company. The Defendant argued that its decisions had been legitimately and lawfully made, and, in any event, it was not exercising public functions when it made them. The Defendant was successful on all grounds.

R. (on the application of Davey) v Oxfordshire CC & EHRC & Inclusion London Court of Appeal [2017] EWCA Civ 1308; [2018] P.T.S.R. 281

This case is one of the leading cases on the Care Act 2014. Jamie acted for the unsuccessful Claimant.

Poshteh v Kensington and Chelsea RLBC [2017] A.C. 624

The Supreme Court dismissed the Appellant's appeal and found that decisions about homelessness assistance under Part VII Housing Act 1996 do not engage Article 6 ECHR

R (on the application of SG) v Haringey LBC [2017] EWCA Civ 322

This case established that local authority social services departments must provide accommodation to asylum seekers who have accommodation related needs for care and support and is also a leading case on the Care Act 2014.

R. (on the application of GS) v Camden LBC [2016] EWHC 1762 (Admin); [2017] P.T.S.R. 140

Jamie acted for the Claimant in this landmark case that established that local authorities may be under a duty to accommodate homeless migrants who have no right to be in the UK but cannot be removed

R. (on the application of S) v Essex CC [2016] EWHC 2145 (Admin); [2016] 7 WLUK 144

Jamie acted for care leaver in a claim concerning the division of responsibility between the secretary of state and the responsible social services department.

Further cases include:

- **Moseley v. Haringey LBC [2014] UKSC 56.** The first case in the highest court to consider the public law on consultation. Jamie represented the successful Claimant who won 5:0 in the Supreme Court
- **R (Bake) v. Waltham Forest LBC [2014] EWHC 1027.** The Claimant successfully prevented the closure of the soup kitchen in the local authority on the grounds that it violated the public sector equality duty.
- **R (Buckley) v. Sheffield City Council [2013] EWHC 512.** This case challenged the changes to Council Tax Benefit on the basis that the new laws failed to comply with the Public Sector Equality Duty. Permission is being sought from the Court of Appeal.
- **R (Almeida) v. LB Kensington and Chelsea [2012] EWHC 1082 (Admin) High Court** . This case concerned the right of severely unwell EEA nationals to receive healthcare and accommodation under s.21 National Assistance Act 1948. One of very few community care claims to be successful on human rights grounds. (Read more [here](#))
- **R (Disability Law Service) v SoS Justice 2012 CO/8595/2011 Court of Appeal.** This challenge was against the Legal Aid, Sentencing and Punishment of Offenders Bill and in particular the withdrawal of welfare benefits from the scope of legal aid pursuant to the s.149(1) Equality Act 2010. Jamie was against both a leader and junior. (Read more [here](#))
- **R (Child Poverty Action Group) v SoS Work and Pensions [2011] EWHC 2616 (Admin) High Court.** Child Poverty Action Group challenged Ian Duncan Smith's reductions to housing benefit. Jamie was led by Martin Westgate QC. (Read more [here](#))
- **R (Dyde) v SUA Magistrates Court 2009 EWHC 3011 Divisional Court.** This case concerned the licensing of hire vehicles, test purchasing and entrapment. Jamie was against a leader and junior.
- **R (Heffernan) v The Rent Service [2008] UKHL 58 House of Lords.** This landmark case established that the government agency responsible for housing benefit, the Rent Service, acted unlawfully when setting local maximum rates of housing benefit nationwide. Jamie was led by Richard Drabble QC. (Read more [here](#))

Housing and Social Welfare

Jamie is a housing specialist and is recognised as a 'star individual' in Chambers and Partners.

In Phase 1 of the **Grenfell Tower Inquiry** Jamie acted for various bereaved, survivors and residents affected by the fire.

R (Joint Council for the Welfare of Immigrants) v. Secretary of State for the Home Department [2020] Court of Appeal – judgment pending

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John Romans Park Homes Ltd v Hancock Upper Tribunal : [2018] UKUT 249 (LC);

The appeal raised an important issue regarding the meaning of 'protected site' in the Mobile Homes Act 1983 and the Caravan Sites Act 1968. The UT decided a 'mixed use' site could be a protected site and therefore all eligible agreements were protected under the 1983 Act.

Poshteh v Kensington and Chelsea RLBC [2017] A.C. 624

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Jamie acted for care leaver in a claim concerning the division of responsibility between the secretary of state and the responsible social services department.

Further cases include:

- **NJ v. Wandsworth LBC [2013] EWCA Civ 1373.** This case concerned important issues regarding the entitlements of homeless women who have been subjected to domestic violence and in particular whether they can be said to have lived in refuge accommodation “as of choice” as opposed to of necessity.
- **Carauna v. London Borough of Lambeth [2015]** successful defence of claim for possession on public law and Article 8 ECHR.
- **Ceballos v, Southwark LBC [2014] EWHC 1450** Appeal against a possession order
- **R (Almeida) v LB Kensington and Chelsea [2012] EWHC 1082 (Admin) High Court** . This case concerned the right of severely unwell EEA nationals to receive healthcare and accommodation under s.21 National Assistance Act 1948. One of very few successful human rights related community care claims. (Read more [here](#))
- **Murphy v. Wyatt 2011 [2011] EWCA 408 Court of Appeal.** The decision of the Court of Appeal regarding the remit of the Mobile Homes Act 1983 has a significant impact on those who live in caravans on land that does not belong to them. (Read more [here](#))
- **R (Child Poverty Action Group) v SoS Work and Pensions [2011] EWHC 2616 (Admin) High Court.** Child Poverty Action Group challenged Ian Duncan Smith’s reductions to housing benefit. Jamie was led by Martin Westgate QC. (Read more [here](#))

- **Lambeth short life property litigation 2011-3 County Court.** Lambeth Council are seeking to evict several hundred tenants who have occupied buildings originally intended for development in the 1970s but which remain undeveloped. The case is very politically controversial and follows on from the famous case of *Lambeth v Kay* [2006] UKHL 10 which went to Strasbourg as *Kay v UK*(66746/01). (Read more [here](#))
- **Affinity Sutton Homes Ltd v (i) The Personal Representative of Ernest Cooper (ii) Colin Cooper DJ Brett, Bromley County Court 17th October 2010.** The Defendants successfully resisted possession proceedings in relation to their late father's home on two distinct basis, namely that they had a contractual right to succeed to the property and that an eviction would represent a disproportionate interference with their Article 8 rights. This is the only case in which an occupier who didn't have a statutory right to succeed to a property was able to persuade the court that he an eviction would breach his Article 8 rights.
- **Bv.N aka Re N [2009] EWHC 2884 (Admin) High Court.** The lead case on the powers of receivers to confiscate property obtained with proceeds of crime in which innocent tenants reside. The court found that the tenant is entitled to remain in possession. (Read more [here](#))
- **R (Heffernan) v The Rent Service [2008] UKHL 58 House of Lords.** This landmark case established that the government agency responsible for housing benefit, the Rent Service, acted unlawfully when setting local maximum rates of housing benefit nationwide. Jamie was led by Richard Drabble QC. (Read more [here](#))
- **R (W) v North Lincolnshire Council [2008] ALL ER (D) 34 (Admin) High Court.** The council was not entitled to use s.17 Children Act support where s.20 Children Act criteria were met.
- **R (Osei) v The London Borough of Southwark [2007] EWCA Civ 787 Court of Appeal.** The case concerns the principles applicable to intentional homelessness in respect of foreign nationals who come to the UK to find work.
- **Slater v Lewisham BC [2006] EWCA Civ 394 Court of Appeal (2006) HLR 37:Times, May 3, 2006.** Slater is the lead case on the meaning of "reasonable to accept" in the context of decisions to discharge homelessness duties.
- **London Borough of Tower Hamlets v Rahanara Begum [2005] EWCA Civ 116 (2006) HLR 9 : (2005) BLGR 580 : (2005) NPC 23 : Times, February 22, 2005 Court of Appeal.** Article 8 and homelessness: this case was one of the first to deal with the

relevance of Article 8 in mandatory possession proceedings.

- **R (Ho-Sang) v. Lewisham BC [2004] Legal Action July 2004 (Admin) High Court.** In these proceedings against the council the Claimant sought an order requiring the Council to purchase additional housing stock to meet homelessness demand in its area.
- **Lambeth Borough Council v Forbes: R (Forbes) v LBC [2003] EWHC 222 (Admin) High Court Times, March 10, 2003.** This was the first case that considered the introductory tenancies regime and in particular the circumstances in which the landlord must serve a second notice seeking possession.
- **R (C) v Lewisham Borough Council [2003] EWCA Civ 927 Court of Appeal.** Times, August 12, 2003: Independent, July 10, 2003. This case remains the lead case on the exercise of the discretion to consider out of time requests for reviews of homelessness decisions.

Community Care and Health

Jamie regularly undertakes judicial reviews concerning community care and health law and also acts for parties to civil claims concerning children and health authorities in particular.

National Union of Professional Foster Carers (NUPFC) v. Certification Officer Court of Appeal – trial in 2020

Foster carers are not permitted worker status and cannot join unions. They sought to persuade the courts that this amounted to unlawful discrimination under Article 14. Jamie acted on behalf of the intervenor, the European Children Rights Unit.

R (SN) v. Nottingham CC [2020] judgment pending

This case concerns the status of EEA nationals who have applied for leave to remain under the EU settled status regime and will decide whether they are excluded from state support in the meantime. Jamie acts for the Claimant.

R (JD) v. Secretary of State for Work and Pensions [2020] judgment pending

The loan scheme for mortgage interest payments paid to vulnerable persons discriminates against disabled people who need to move home because the scheme requires them to pay back the loan first.

R(AA) v. Rotherham BC [2019] EWHC 3529 (Admin)

This was a challenge to the closure of a day care centre in Rotherham that had previously been used by many disabled people. The case concerned the common law on consultation.

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R. (on the application of S) v Essex CC [2016] EWHC 2145 (Admin); [2016] 7 WLUK 144

Jamie acted for care leaver in a claim concerning the division of responsibility between the secretary of state and the responsible social services department.

Further cases include:

- **R (SG) v. Haringey LBC [2015] EWHC 2579** Jamie was successful in the first case under the Care Act 2014. Permission has been sought from the court of appeal.
- **R (Almeida) v LB Kensington and Chelsea [2012] EWHC 1082 (Admin) High Court** . This case concerned the right of severely unwell EEA nationals to receive healthcare and accommodation under s.21 National Assistance Act 1948. One of very few community care claims to be successful on human rights grounds. (Read more [here](#))
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R (Ali Farah) v LB Haringey [2012] C0/11262/11 (Admin) High Court. In this case Jamie argues that medical needs can amount to “care and attention” and trigger a duty on behalf of psychologically unwell applicants to receive accommodation under s.21 National Assistance Act 1948.

- **R (Carvalho) v LB Hackney 2012 (CO 7298/2012).** This claim on behalf of a 17 year old Brazilian girl who seeks accommodation and support in the UK under the Children Act on the basis that she is fleeing domestic violence from her father and mother. She does not wish to return to Brazil.
- **R (Mohomoud) v LB Newham (CO/1106/2012) BC2 Case.** This case concerns the acquisition of suitable community care services, including adapted accommodation, for a severely disabled wheelchair bound man and his family.
- **R (Pinchen) v LB Croydon.** Claim relating to the failure by the council to provide a disabled facilities grant to Mr Pinchen or lawfully assess his community care needs.
- **R (Cordingly) v LB Hillingdon 2012.** Claim resisting the removal of a child in need from specialist foster care into independent living
- **R (W) v North Lincolnshire Council [2008] ALL ER (D) 34 (Admin) High Court.** The council was not entitled to use s.17 Children Act support where s.20 Children Act criteria were met.

Equality and Discrimination

Jamie regularly advises and acts for individuals who maintain they have been discriminate against in the field of housing, social or health care. He also acts for NGOs and other not-for-profit organisations in respect of cuts to public services.

Jamie is on the EHRC A Panel

National Union of Professional Foster Carers (NUPFC) v. Certification Officer Court of Appeal

Foster carers are not permitted worker status and cannot join unions. They sought to persuade the courts that this amounted to unlawful discrimination under Article 14. Jamie acted on behalf of the intervenor, the European Children Rights Unit.

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Jamie acted as lead counsel for the Second Intervenor, Just Fair. Dan Clarke is junior counsel.

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The Privy Council dismissed an appeal against the decision of the Caribbean Court of Appeal which maintained the detention of a minor in an adult's prison. Jamie was junior counsel to Richard Clayton QC and Anand Ramlogan SC. He drafted the submissions on the best interests of the child.

R (Gullu) v. London Borough of Hillingdon & Equality and Human Rights Commission [2019] PTSR 1738 Court of Appeal

This case concerned discrimination against refugees in the provision of public housing. It raises important issues about the extent to which residency requirements can be applied to refugees who by definition cannot choose which country they live in. Jamie successfully appealed to the Court of Appeal

Further cases include:

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R (Buckley) v. Sheffield City Council [2013] EWHC 512. This case challenged the changes to Council Tax Benefit on the basis that the new laws failed to comply with the Public Sector Equality Duty. Permission is being sought from the Court of Appeal.

- **James v LB Wandsworth: Darwish v. LB Westminster 2012 CO/ 213414 Court of Appeal.** These cases were heard separately but will now be heard together in the Court of Appeal. They concern important issues regarding the entitlements of homeless women who have been subjected to domestic violence and in particular whether they can be said to have lived in refuge accommodation “as of choice” as opposed to of necessity.
- **R (Disability Law Service) v. SoS Justice 2012 CO/8595/2011 Court of Appeal.** This challenge was against the Legal Aid, Sentencing and Punishment of Offenders Bill and in particular the withdrawal of welfare benefits from the scope of legal aid pursuant to the s.149(1) Equality Act 2010. Jamie was against both a leader and junior. (Read more [here](#))
- **R (Child Poverty Action Group) v SoS Work and Pensions [2011] EWHC 2616 (Admin) High Court.** Child Poverty Action Group challenged Ian Duncan Smith’s reductions to housing benefit. Jamie was led by Martin Westgate QC (Read more [here](#) and [here](#))

Corporate Governance & Policy

Jamie has advised local authorities and health authorities about the interrelationship between their social and health care responsibilities.

Jamie has thus far only been asked to advise public authorities and has not represented them in litigation.

International Law

In 2009 Jamie spent six months working on welfare and environmental issues in India. He was involved in a group action concerning the largest anti-poverty scheme in the world ("the Right to Food") and assisted in various claims relating to environmental damage caused by mining in south India.

Jamie is also a member of the following expert groups: for UNICEF on the EU Convention on the Rights of the Child and for Housing Rights Watch on issues pertaining to homelessness in the EU.

Jamie acted for the claimants in an international tort claim arising from the alleged mistreatment of local inhabitants of Madagascar by an international mining company.

Mental Health and Court of Protection

Jamie regularly appears in the court of protection on behalf of protected persons, local authorities and the Official Solicitor.

Prison Law and Criminal Justice

Jamie has been instructed on numerous judicial reviews relating to prison conditions, the release of prisoners and issues arising out of the criminal justice system. He advises both victims and suspects in relation to decisions of the CPS.

Currently Jamie acts for a group of inmates at Wandsworth prison in relation to the provision of inadequate healthcare.

Actions Against the Police and Public Authorities

Jamie has acted for claimants in actions against the police since he commenced practise. He has particular expertise in the field of damages claims under the Human Rights Act 1998 arising from defective investigations into serious allegations regarding Articles 2, 3 and 8 of the European Convention of Human Rights.

Recently Jamie successfully sued Staffordshire Police on behalf of a Claimant who maintained that the Police failed to investigate an allegation of rape adequately and as a

consequence breached her Article 3 right to an effective investigation. The case is the first to be determined at trial (T v Chief Constable Staffordshire Police CO/OBMO4476).

SCC v. (i) Telford Borough Council (ii) West Mercia Police (iii) Royal Borough of Greenwich and (iv) Commissioner of the Police for the Metropolis [2019] - ongoing

This case concerns failures by four different Police and social service departments to protect the Claimant and her siblings over many years after she had been trafficked to the UK from Haiti. She suffered years of sexual exploitation, forced pregnancy and forced labour.

Tomaszewski v. Chief Constable of Nottinghamshire police [2019] settled

The claimant suffered a psychiatric episode when he became psychotic. Whilst in police custody he gouged out his eye and is now blind. He claimed the police were negligent in failing to recognise his risk.

Wills & Others v. Commissioner for Police of Metropolis [2018]

The police assaulted and dispersed a group of anti-fascist protestors who wished to counter-demonstrate against a British National Party march in central London. This group claim is for damages for assault and a breach of their right to protest under the Human Rights Act. The case is important because it considers the extent to which the counter-demonstrators had a right to demonstrate as close as possible and with maximum disruption of the BNP march

Freedom of Information and Data Protection

Jamie acts for Claimants and Defendants in cases which concern potential breaches of the right to privacy under Article 8 ECHR in the context of publications and campaigns of harassment. He has intervened in criminal proceedings in order to protect the privacy of third parties and appeared in several judicial reviews which involved privacy and data issues.

Clinical Negligence & Personal Injury

Jamie regularly advises on NHS continuing care and clinical provision and has been instructed on numerous judicial reviews relating to prison conditions. He currently acts for a group of inmates at Wandsworth prison in relation to the provision of inadequate healthcare.

Jamie also recently represented an individual who whilst in police custody, suffered a psychiatric episode, gouging out his own eye resulting in blindness. The claimant claimed the

police were negligent in failing to recognise his risk and the claim was settled before trial.