

Jim Tindal

jtindal@st-philips.com

Call: 2002

Education: Birmingham University

Appointments: Part-Time Employment Judge (Bristol Tribunal)
Deputy District Judge (Magistrates Courts)



Areas of expertise

- **Employment**
- **Personal Injury**
- **Public and Admin Law**
- **Property**



Introduction

Jim is a former Solicitor and has now been at the Bar for 10 years. He has developed an expertise in what might be described as 'social and public law', dealing with a number of related and overlapping fields including: employment, personal injury, Court of Protection and community care, housing, education, human rights and public authority law. He is on the Treasury Counsel Panel and regularly acts in cases involving central government or local government, and is a visiting lecturer in law at Birmingham University. He is described in Legal 500 as 'always providing clear, concise advice' and in 2009 was appointed a Deputy District Judge (Magistrates Courts) and part-time Employment Tribunal Judge, then at 33 one of the youngest in the country to hold either position.

Employment

Jim is a part-time Employment Judge in Bristol. He has been practicing in employment for 13 years since being a solicitor, has an entry in Legal 500 and is on the Treasury Counsel's panel. He has been instructed both by Central Government on test cases involving national policies within the prison service banning Sikh Kirpans and on fitness testing of Prison Officers; and by Trade Unions, including a the first case to define the word teacher in *Owens* - a pensions test case affecting thousands of non-mainstream teachers in the Court of Appeal. Jim regularly appears in the Employment Tribunal and EAT, including the recent *Fereday* case on affirmation in constructive dismissal.

Jim has a particular interest in employment cases in the civil courts, including wrongful dismissal, breach of contract and injunction claims. Jim writes the chapters on implied terms in the Encyclopedia of Employment Law and he has been involved in cases concerning springboard injunctions to protect confidential information where restrictive covenants are unenforceable, and the fiduciary responsibilities of directors to challenge poor management. He has appeared in test cases including on the application of TUPE to sales of businesses by administrators, including the *Blake* case, where his submissions accepted by the EAT in *Blake* have since been endorsed by the Court of Appeal in other leading cases.

Clinical Negligence

Jim has advised on cases including the liability of the NHS to an individual stabbed by a psychiatric patient under NHS care; a fatality of an elderly person arising from poor nursing care, and a fatality from legionnaires disease abroad under package travel legislation involving complex questions of forum, liability, causation, and quantum (the deceased was a self-employed person who had just started a new business), and cases about reimbursement of medical expenses paid as a result of clinical negligence. With a dentist for a wife, Jim has a speciality in dental negligence cases, involving failure to warn of the risks of surgery, treatment of the wrong teeth, and unsatisfactory dental work, as well advising in numerous personal injury cases involving dental injuries. He also appeared for the General Dental Council in a claim brought by a dentist.

Personal Injury

Jim has been practising in personal injury work for 13 years, since initially training as a solicitor. He has extensive experience of multi-track work in a variety of different areas, in particular employer's liability (including for stress at work), highway liability and RTAs (including fatalities), public authority negligence in the fields of education and social work (including liability for failing to prevent abuse), holiday injuries and fatalities, inquests, fatal accidents and illnesses, insolvent defendants, solicitor's negligence in the conduct of PI proceedings, and an 'old scheme' CICA common law damages hearing involving a permanently brain injured child claimant valued over £5m.

Court of Protection, Mental Health and Community Care

Jim has a particular speciality in issues of disability and vulnerable people in a number of different fields enabling him to look at a case from a number of different angles. He has years of experience in cases involving mental health, special educational needs, disability discrimination, psychiatric injury, human rights and public law work in Tribunals and the Civil and Administrative Courts, and professional regulatory bodies such as the General Social Care Council and Nursing and Midwifery Council.

Jim has been instructed to advise local authorities on the capacity of and protective measures for vulnerable adults with a history of risky decision-making encompassing action under the MHA, MCA, community care legislation and injunctions. He has also advised in respect capacity in previously sectioned patients and lawfulness of charging for 'top-ups' in aftercare services under s.117 MHA. He has jointly advised local authorities in conflict over community care provision and responsibility for vulnerable adults with complex needs and mental health problems. He has been instructed in cases concerning deaths in care homes and also reimbursement of care home fees concerning charging for community care and availability of NHS Continuing Care and availability of welfare benefits for service charges in sheltered accommodation. He has dealt with issues of capacity in relation to Forced Marriages, and MHA Nearest Relative Applications. He has dealt with Judicial Review cases involving issues of capacity and safety relating to accommodation and homelessness and vulnerable asylum seekers. Jim also conducted a multi-million pound PI claim involving brain injury and child abuse in the Criminal Injuries Compensation Tribunal with issues in the Court of Protection relating to undertakings as to the investment of damages, and has advised on other cases involving PI awards and the Court of Protection.

Housing and Homelessness

Jim has extensive experience of housing and homelessness law. He has advised and appeared for tenants and landlords in several homelessness appeals (including a complex case involving three overlapping appeals by members of the same family), allocations of public accommodation to disabled people and disrepair and possession claims in private and public housing involving disability, human rights and antisocial behaviour. Jim also has experience of related areas of law such as repossession claims by mortgagees and insolvency practitioners, availability of housing benefit and related benefits in cases involving 'non-commercial tenancies', disregards of beneficial interests in other property, and services charges in sheltered accommodation. He also appeared in the Court of Appeal on the *Challinor* case concerning local authority powers of entry and seizure on land under planning enforcement notices, encompassing issues of human rights, abuse of process, misfeasance, conversion, and negligence.

Education

Jim has considerable experience of education work, and indeed appeared in the Court of Appeal in *Owens* - the first case to define the word 'teacher'. He has appeared for both local authorities and parents in exclusion appeals in schools and independent appeal panels, admissions appeals and special educational needs cases, including acting for parents facing care proceedings in respect of an autistic child, and judicial review, human rights and educational negligence cases concerning the adequacy of provision of specialised or general education. Jim has advised and appeared in disability and other discrimination claims in the context of higher education, in prosecutions for non-school attendance and has represented a trainee teacher charged with professional incompetence at the General Teaching Council.

Immigration

Jim has wide experience of both asylum/HR claims and entry clearance claims and of immigration judicial review and human rights claims, on issues such as unlawful detention (including both deportation and detention to prevent marriages), rights of appeal for 'foreign criminals' on a refusal to revoke a deportation order, and 'fresh claims' for a range of different countries, including Zimbabwe, Sudan and Jamaica.

General Judicial Review and Public Law

Jim has conducted and defended Judicial Review proceedings before a number of High Court Judges both in the Royal Courts of Justice and Birmingham and Leeds Administrative Courts, not only in the community care, education, housing and immigration fields discussed, but also on such matters as suspension of local councillors and other public officials, early release of prisoners, and licensing/competition law. Jim also sits as a Deputy District Judge in the Magistrates Court where he has heard regulatory cases on licensing, planning and food hygiene.

Notable Cases

Owens v Dudley MBC [2012] ICR 453 (Court of Appeal)

Challinor v Staffordshire CC (Court of Appeal) 2011

Fereday v South Staffordshire NHS (EAT) 2011

Blake v CAB Automotive (EAT) - IDS Brief May 2008

Articles and publications

Sweet and Maxwell's Encyclopaedia of Employment Law

Tucker and George on Discrimination in Employment

Interests

Listening and playing music, watching but not understanding improving films, enjoying watching football but playing it extremely badly.

Clerk

Justin Luckman

T: 0121 246 7050

F: 0121 246 7001

E: jluckman@st-philips.com

