



Thomas Cross

Year of call: October 2007 (Lincoln's Inn)



PRACTICE PROFILE

Tom joined Chambers in 2008 following successful completion of his pupillage. During 2008-9 he was appointed part-time Visiting Lecturer at the City University, London, teaching the law of torts to students on the GDL and Graduate Entry LLB programmes. In 2009 a selection panel chaired by Lord Hope of Craighead appointed Tom a first Judicial Assistant at the UK Supreme Court, where worked for Lord Collins of Mapesbury and Lord Saville of Newdigate. He has now returned to full-time practice.

Tom has a broad practice across the breadth of public law, advising and acting for individuals, public authorities, and interested parties. He is instructed by the Treasury Solicitor through the "baby barrister" scheme, and benefits from placements at the Royal Borough of Kensington and Chelsea and Sevenoaks District Council.

He is the founding editor of the free FTB Local Government Update, sent quarterly to subscribers. Subjects covered by the Update include [Community care](#), [Education](#), [Environmental and Planning law](#), [European law](#), [Information law](#), [Housing](#), [Licensing](#), [Local Government Finance](#), [Mediation](#), and [Public Procurement](#). To subscribe please e-mail localauthority@ftb.eu.com

He is a member of the Constitutional and Administrative Law Bar Association (ALBA), the Human Rights Lawyers Association (HRLA), the Bar European Group (BEG), and the UK Environmental Law Association (UKELA).

AREAS OF PRACTICE

Education
Administrative, Public and Human Rights
Environmental and Planning
Licensing and Regulatory
Employment

EXPERIENCE

Education

- *Bury Metropolitan Borough Council v Usman* (pending before the Upper Tribunal) (whether the First-Tier Tribunal is entitled under s.316 of the Education Act 1996 to consider the suitability for mainstream education of a child with SEN)
- *Siborurema v Office of the Independent Adjudicator for Higher Education* [2007] EWCA Civ 1365 [2008] ELR 209 (whether the OIA was amenable to judicial review)
- Appearing on behalf of parents and LEAs at the First-Tier Tribunal in appeals against one or more of Parts 2, 3 and 4 of a child's SEN (including as a qualified IPSEA Tribunal representative)
- Advising an independent school on the effect of the Unfair Terms in Consumer Contracts Regulations 1999
- Representing before a university admissions panel a mature student seeking to enrol on a nursing course in spite of previous convictions
- Regular writing including:

Faith schools, religious education and religious worship in English and US schools: a comparative law study [2010] EdLJ (forthcoming)

Judicial review of the Office of the Independent Adjudicator after Siborurema [2008] EdLJ 25

- Substantial research as a Judicial Assistant at the Supreme Court:

R (on the application of E) v JFS Governing Body [2009] UKSC 15 [2010] 2 WLR 153 (whether a Jewish's school's admission test of matrilineal descent from a Jewish woman constituted direct racial discrimination)

A v Essex County Council [2010] UKSC 33 Times, July 15, 2010 (whether an LEA's failure to provide suitable education to a child with severe SEN constituted a breach of the ECHR)

Re JR17's Application for Judicial Review [2010] UKSC 27 (whether a school had power to suspend a pupil on a "precautionary" basis)

Administrative, Public and Human Rights

- *R (on the application of Boyle) v Haverhill Pubwatch* [2009] EWHC 2441 (Admin) (whether the banning decisions of so-called "Pubwatch" organisations can be amenable to judicial review)
- *R (on the application of Savva) v Royal Borough of Kensington and Chelsea* (hearing pending before the Court of Appeal) (whether and in what form an authority is obliged to give reasons in awarding community care to the vulnerable)
- *R (on the application of Manchester City Council) v The Secretary of State for the Environment, Food and Rural Affairs* [2007] EWHC 3167 (Admin) (judicial review of a decision by the Secretary of State not to extinguish a public right of way along a crime-troubled street, considering the correct approach to mandatory considerations)
- Pending application to the European Court of Human Rights alleging a violation by the UK of Article 6 of the Convention following the ruling of the House of Lords in *Seal v Chief Constable of South Wales Police* [2007] UKHL 31 [2007] 1 WLR 1920
- Acting for the Criminal Injuries Compensation Authority in over twenty cases before the Criminal Injuries Compensation Appeal Panel
- Appearing at the Social Security Tribunal in cases concerning incapacity benefit, disability living allowance, and related matters
- Regular writing including:

Top ten public law cases in the Supreme Court so far JR (forthcoming)

Is there a "civil right" under Article 6? Ten principles for public lawyers [2010] JR (forthcoming)

The tort of abuse of process in judicial review [2009] JR 256

When 'to start' is 'to continue': statutory interpretation in the Brian Haw case [2007] JR 122

Focus on Article 9 ECHR: recent developments [2007] JR 75

Article 2 ECHR and 'Mistaken Belief' in the Prevention of Crime: a re-evaluation post Bennett [2006] JR 180

- Substantial research as a Judicial Assistant at the Supreme Court:

R (on the application of Barclay) v Secretary of State for Justice [2009] UKSC 9 [2010] 1 AC 464 (whether new constitutional arrangements on the Channel Island of Sark complied with Article 3 of the First Protocol to the ECHR)

R (on the application of Smith) v Secretary of State for Defence [2010] UKSC 29 [2010] 3 WLR 223 (meaning of "jurisdiction" in Article 1 of the ECHR in the context of extra-territorial deployment of British troops in Iraq)

HJ (Iran) v Secretary of State for the Home Department [2010] UKSC 31 (2010) 107(29) L.S.G. 18 (whether a person having a well-founded fear of persecution, were he to live openly as a gay man on his return to his country of nationality, was a "refugee" within the meaning of the Geneva Convention)

R (on the application of Brent LBC) v Risk Management Partners Ltd (pending before the Supreme Court) (whether a local authority's participation in a mutual insurance company was *ultra vires* and / or a breach of its public procurement obligations)

Environmental & Planning

- *R (on the application of Cathco Property Holdings Ltd) v Cygnor Gwynedd Council* [2008] EWHC 1462 (Admin): judicial review of a Council's decision to grant

planning permission for a major retail development on the outskirts of Bangor. Contains discussion of the role of officer's reports to committee

- Acting successfully as sole counsel (against two leading silks) for the sole objectors at the called-in "Foster Tower" inquiry into a major mixed-use scheme in the heart of Ealing (instructed by Pat Thomas OBE)
- Acting successfully for Oxford City Council in resisting Oxford University's application to build a new and substantial Library Depository as part of the Bodleian complex
- Numerous smaller inquiries, including gypsy cases involving human rights issues
- Advising transport for London in respect of permitted development rights to construct a signal control centre controlling half of the tube underground network
- Advising on the impact of the EU Habitats Directive and the North Atlantic Salmon Conservation Organisation Treaty (to which the EU is a signatory) on domestic laws in Northern Ireland regulating the issue and revocation of commercial fishing licences
- *Regular writing including:*

Predispositions, predeterminations and the test for apparent bias: some reflections post National Assembly for Wales v Condrón [2007] JPL 1260

Environmental Law in Property Transactions (3rd Edn) (Tottel: 2009 (chapters on "Built Environment" and "Habitats" at pp. 467-518)

R (Lewis) v Redcar and Cleveland BC: Case Note [2008] RWLR 15.3, 133

Statutory Nuisance (2nd Ed, Tottel: 2008) by McCracken, Jones and Pereira, the leading textbook in that field (contributor)

The Environmental Information Regulations 2004: recent developments in the Information Tribunal [2008] S.J. 2008, 152(11), 24-26

Numerous papers at Chambers and other seminars

- Substantial research as a Judicial Assistant at the Supreme Court:

R (on the application of Sainsbury's Supermarkets Ltd) v Wolverhampton City Council [2010] UKSC 20 [2010] 2 WLR 1173 (proper scope of a Council's powers of compulsory acquisition in circumstances where two rival developers are competing for the power to be exercised in its favour in respect of the same site)

Licensing and Regulatory

- *R (on the application of Bristol City Council) v Bristol City Magistrates Court* [2009] EWHC 625 (Admin) (leading authority on the determination of premises licence applications under the Licensing Act 2003)
- Acting for operators, local authorities and objectors at licensing committee hearings and in Magistrates' Courts on appeal
- Regular writing including

Phillips & Norris, *A Practical Guide to the Regulatory Enforcement and Sanctions Act* (OUP: forthcoming) (chapters on the Tribunals, Courts and Enforcement Act 2007 and Judicial Review)

The Status of the Operating Schedule [2009] *Licensing Review*, 11

Employment

- Acting as legal adviser to an appeal panel at a local authority determining a dismissal dispute
- Representing a claimant dismissed by her employer for whistle-blowing in respect of the mistreatment of residents at a home for the elderly
- Substantial research as a Judicial Assistant at the Supreme Court:

Parkwood Leisure Limited v Alemo-Herron (pending before the Supreme Court) (whether the TUPE Regulations provide a more extensive right to the benefit of collective agreements reached after the transfer of an undertaking than required by EU law)

Gisda Cyf v Barratt (pending before the Supreme Court) (meaning of "effective date of termination")

Other

- Advising a child claimant seeking to recover damages from an authority charged with her care for negligence causing pure economic loss

- Acting in neighbour dispute concerning the scope of the right to a free passage of air
- Advising on the effect of the acquisition of easements of light and access, and (in a different case) the effect of a restrictive covenant, on a developer's ability to implement a planning permission
- Instructed (uniquely) as *amicus* to the non-statutory public inquiry into whether or not land owned by the Duke of Northumberland in Amble, Northumberland should be recommended for registration as a village green

BACKGROUND

Education

- The Queen's College, Oxford (2001-2005): MA Modern Languages, French and Spanish (Double First Class Honours; 'top ten' across whole faculty)
- City University, London (2005-6): Graduate Diploma in Law (Distinction)
- BPP Law School, London (2006-7): Bar Vocational Course (Outstanding)

Legal Prizes and Scholarships

- Sir Robert Megarry Award (2007), Lincoln's Inn
- Buchanan Prize (2007), Lincoln's Inn
- Peter Duffy Human Rights Scholar (2007), Bar European Group (Annual Conference, Rome)
- Lord Denning Scholar (2006), Lincoln's Inn
- Lord Bowen Scholar (2005), Lincoln's Inn
- Hardwicke Entrance Award (2005), Lincoln's Inn
- Winner, Lord Slynn of Hadley Mooting Trophy (UKELA) (2008) (before Carnwath LJ)
- Finalist, City University Internal Mooting Competition (2006) (before Tuckey LJ)
- Judge (by invitation), City University Mooting Competitions (2006-8)

Non-legal prizes

- Claude Massart Prize
- Anglo Spanish Society Prize
- Heath Harrison Scholar (French)
- Laming Scholar of The Queen's College, Oxford