

Edward
Waldegrave
Call: 2011



Edward has a busy litigation practice and regularly represents clients at all levels of the court system, up to and including the Supreme Court. His particular expertise is in disputes involving tax (both direct and indirect), but his practice also encompasses non-tax claims for judicial review, professional negligence proceedings, costs, and litigation concerning the Freedom of Information Act 2000. He often works (either as sole counsel or with others) on high-value and/or high-profile cases involving significant legal and factual complexity.

Edward was appointed to the Attorney General's A Panel of Junior Counsel to the Crown in 2024 and regularly represents government clients as well as businesses and individuals.

Significant cases in which Edward has acted in recent months include:

- **Cobalt Data Centre 2 LLP v. HMRC** (Supreme Court, January 2024): High-value case concerning the availability of enhanced capital allowances for investments in "enterprise zones", and which raises important contract law questions.
- **Mersey Docks and Harbour Company Limited v. HMRC** (First-tier Tribunal, February 2024): Concerned the availability of "plant and machinery" capital allowances for expenditure on a substantial quay wall on the River Mersey.
- **ThyssenKrupp Materials (UK) Limited v. HMRC** [2024] UKUT 79 (TCC) (Upper Tribunal, February 2024): Dispute worth about £8 million as to the availability of "inward processing relief" from customs duty and import VAT.
- **Barclays Services Corporation v. HMRC** [2024] UKFTT 785 (TC) (First-tier Tribunal, May 2024): This case concerned the VAT grouping rules in the financial services sector. The key issues concerned the circumstances in which a company will have a "fixed establishment" in the UK, and HMRC's "protection of the revenue" powers.
- **MN and Others v. Secretary of State for the Home Department** (Administrative Court, July 2024): A challenge to the lawfulness of the Government's policy of using a former military facility in Essex to accommodate asylum-seekers, and related issues.
- **Moore (Valuation Officer) v. Bailey** [2024] UKUT 304 (LC) (Upper Tribunal, July 2024): This case

concerned the treatment for rating purposes of equestrian facilities on a farm.

- **M R Currell Limited v. HMRC** (Upper Tribunal, October 2024): This case concerned whether a contribution to an employee benefit trust gave rise to employment income tax and National Insurance liabilities.

"Edward is simply excellent. A particular strength is his ability to express complex matters clearly and simply. Extremely calm. Excellent client manner. A pleasure to work with."

Legal 500

"I was immediately impressed by Edward on tax work. He is a pleasure to work with: very calm, quick to turn things around, thorough and calm under pressure. Fantastic with clients."

Chambers & Partners

"Edward Waldegrave is very measured and sensible in approach and very impressive in getting his arguments across."

Chambers & Partners

"Edward Waldegrave is very proactive, very wise beyond his years. He has very sound judgment and is clear and crisp in his submissions".

Chambers & Partners

Tax & Rating

Edward regularly acts for taxpayers and HMRC in a wide range of direct and indirect tax cases. His practice in this area spans both personal and business taxes and the cases on which Edward is instructed are often complex and high-value, and involve important points of principle. Issues which Edward has recently been involved in litigating include points concerning the intangible asset regime, the scope of the income tax and National Insurance Contributions charge on "earnings", the availability of capital allowances and the VAT grouping rules. He also has extensive experience of disputes concerning customs duties (including customs classification). He is recommended as leading junior by both Chambers & Partners and the Legal 500.

Selected Cases

Business Tax

- **Swiss Centre Limited v. HMRC** [2023] UKFTT 449 (TC): Edward acted as lead counsel for HMRC in this case concerning the deductibility of about £33 million under the "loan relationship rules".
- **Cobalt Data Centre 2 LLP v. HMRC** [2022] EWCA Civ. 1422: Edward acted for HMRC in the Upper Tribunal, Court of Appeal, and Supreme Court in this litigation which concerned the availability of enhanced "enterprise zone" capital allowances for expenditure on the construction of data centres. The litigation involved multiple issues including important points of contract law and a claim for judicial

review based on legitimate expectation. The Supreme Court heard the case in January 2024 and a decision is awaited.

- **Urenco Chemplants Limited v. HMRC** [2022] EWCA Civ. 1587: Edward acted for HMRC in the First-tier Tribunal, Upper Tribunal and Court of Appeal in this litigation concerning the availability of capital allowances in respect of expenditure of some £192 million on facilities for processing and storing nuclear waste.
- **Mersey Docks and Harbour Company Limited v. HMRC**: Edward acted for HMRC in the First-tier Tribunal in this case concerning the availability of plant and machinery allowances for significant expenditure on a quay wall on the River Mersey. The FTT heard the case in February 2024 and a decision is awaited.

Personal Tax

- **M R Currell Limited v. HMRC** [ongoing] UKFTT 613 (TC): Edward is instructed by HMRC in this case concerning whether income tax and National Insurance Contributions were due in respect of an amount contributed by a company to an employee benefit trust. The case involves an application of the principles discussed by the Supreme Court in the well-known *Rangers*. The Upper Tribunal heard the case in October 2024 and a decision is awaited.
- **Cooke v. HMRC** [2024] UKFTT 272 (TC): This was a case concerning the availability of entrepreneurs' relief and the circumstances in which the First-tier Tribunal could determine the appeal as if the High Court had made an order for rectification (pursuant to the decision in *Lobler v. HMRC*).
- **Chisnall v. HMRC** [2023] UKFTT 857 (TC): This case concerned the availability of tax relief in respect of gifts to charities of shares. It involved expert evidence as to share valuation as well as arguments about "abuse of process".

Indirect Tax

- **ThyssenKrupp Materials (UK) Limited v. HMRC** [2024] UKUT 79 (TCC): This concerned the availability of "inward processing relief" from customs duty and import VAT. The total amount at stake was about £8 million.
- **Barclays Services Corporation v. HMRC** [2024] UKFTT 785 (TC): Edward acted for HMRC in this case concerning the VAT grouping rules in the financial services sector. The key issues concerned the circumstances in which a company will have a "fixed establishment" in the UK, and the scope of HMRC's "protection of the revenue" powers.
- **O'Neill Wetsuits Limited v. HMRC**: Edward acted in a case concerning how wetsuits should be classified for customs purposes.

Rating

- **Moore (Valuation Officer) v. Bailey** [2024] UKUT 304 (LC): Edward was instructed to act for the appellant Valuation Officer in this case concerning whether equestrian facilities on a farm constituted a single hereditament, or two separate hereditaments.

Public Law

Edward has extensive experience of public law litigation, including cases involving human rights arguments. He has acted for claimants and defendants in judicial review proceedings in a variety of contexts.

Selected Cases

- ***MN and Others v. Secretary of State for the Home Department*** (Administrative Court, July 2024): This high-profile case concerned a challenge to the lawfulness of the Government's policy of using a former military facility in Essex to accommodate asylum-seekers, and related issues.
- ***Cobalt Data Centre 2 LLP v. HMRC*** (Upper Tribunal, 2019): One of the main issues in this case concerned whether the taxpayer had a legitimate expectation that HMRC would accept a claim for capital allowances in respect of a certain category of expenditure.
- ***Claimant v. HMRC***: Edward acted for HMRC in a claim for judicial review (which was settled without a hearing) in which the taxpayer contended that it had a legitimate expectation that HMRC would accept that it was a "qualified claimant" for the purposes of rules relating to excise duty on biodiesel.
- ***Claimant v. HMRC***: Edward is instructed in proceedings concerning a claim that the taxpayer had a legitimate expectation that HMRC would accept that certain supplies which it made fell to be treated as exempt for VAT purposes.

Edward also has experience of appeals from decisions made by the Information Commissioner's Office under the Freedom of Information Act 2000.

Professional Negligence

Edward is regularly instructed for claimants and defendants in professional negligence proceedings relating to tax.

Selected Cases

- ***Claimant v. Investment Advisor***: Edward is acting for the claimant in an ongoing claim brought by an individual who contends that he was negligently advised to invest in an unsuitable form of financial product, and as a result became subject to substantial tax liabilities.
- ***Claimants v. Professional Advisors***: Edward acted for the defendants in proceedings in which claimants alleged that they had been negligently advised to enter into a tax avoidance scheme.

Costs

Edward has extensive experience of disputes about costs.

Selected Cases

- Edward acted for a taxpayer in a dispute with HMRC concerning costs associated with major litigation in the First-tier Tribunal, the Upper Tribunal, and the Court of Appeal. The matter was complicated by the fact that different parties had succeeded on different issues at the various stages of the litigation. The dispute was ultimately settled by agreement.
- Edward recently advised a government body as to whether it was entitled to seek recovery of the VAT element of its costs.

Direct Access

Edward is happy to accept instructions under the Direct Access Scheme.

Appointments

- Attorney General's A Panel of Junior Counsel to the Crown (2024 – present)
- Attorney General's B Panel of Junior Counsel to the Crown (2021 – 2024)
- Attorney General's C Panel of Junior Counsel to the Crown (2017 – 2021)

Education

- Bar Professional Training Course (Outstanding) – City University, London
- Graduate Diploma in Law (Distinction) – City University, London
- BA Hons in History (First) – Christ Church, Oxford

Memberships

- Revenue Bar Association
- Administrative Law Bar Association