

Marina
Wheeler
KC

Call: 1987 KC: 2016



Marina Wheeler KC is a barrister, mediator and writer.

Marina has a broad practice in public and human rights law with a special focus on detention, mental health and national security issues. The reconfiguration of hospital services has also featured heavily in Marina's public law caseload, allowing her to develop expertise in the requirements of a fair consultation and application of the Public Sector Equality Duty. In addition to employment and public law work, Marina also undertakes complex family law cases, often involving a human rights or cross-border element.

Marina is an accredited Mediator and handles investigations, especially those involving the workplace and the healthcare sector, building on her years of experience litigating employment disputes.

Marina recently returned to practice following the publication of her historical family memoir, 'The Lost Homestead'. She writes, and commentates, regularly about legal issues.

Arbitration & Mediation

Marina is an experienced accredited Mediator who previously taught mediation and alternative dispute resolution at Regents University, London. She is competent to mediate any civil dispute but has special expertise in workplace mediation to which she brings her years of experience litigating employment disputes.

She has recently refreshed her practice through remote mediations.

Marina has discussed mediation on [Ep.138](#) of our podcast, Law Pod UK.

Human Rights

Marina has a wide human rights focused practice, spanning issues of mistreatment, privacy and liberty of the subject.

During, and following, the conflicts in Iraq and Afghanistan she was instructed in cases involving UK detention policy, allegations of mistreatment, and the treatment of Afghan nationals who assisted UK armed forces. Cases include: *R (Maya Evans) v Secretary of State for Defence*; *Serdar Mohammed & others v Secretary of State for Defence*; *R (SS) v Secretary of State for Defence & Others*. She has also handled cases in the Investigatory Powers Tribunal (IPT) involving the suspected interception of communications by the security services. Cases include *Belhadj & Others v Security Service & Others*.

Marina has established expertise in privacy cases where, typically, the court is called on to balance Article 8 privacy rights against Article 10 rights to free speech. In many cases she has represented parties, including government departments, arguing for or against anonymisation or restricted reporting orders. Cases include *Leon Rose v Kirklees Safeguarding Board and Secretary of State for Education*; *East Sussex County Council v Stedman, Patten & Others*; *A v Ward*.

Another strand of Marina's human rights practice centres on the criminal justice system. She has handled many Article 5 cases against the prison service and Parole Board, involving the legality of continued detention, the independence and/or impartiality of adjudicative processes and the scope of other procedural protections. Many of her cases tested the extent of the State's positive obligations under the HRA, such as claims against the Crown Prosecution Service for failing to prosecute. Cases include *Miftari v Crown Prosecution Service* and *NXB v Crown Prosecution Service*.

Soon after the HRA was enacted, Marina co-authored "The Civil Practitioner's Guide to the Human Rights Act." She regularly contributes to the [UK Human Rights Blog](#).

Public Law

Marina has accumulated years of experience in public and administrative law, largely through her appointment to the Attorney General's Panel of Council on which she served until taking silk in 2016. She undertook large volumes of work for central government Departments and Agencies including the Ministry of Defence, the Foreign and Commonwealth Office, the Ministry of Justice and Home Office. Her caseload ranged from those involving prisons and the management and categorisation of offenders, to detention powers in armed conflict, to the compulsory detention of mentally disordered offenders in secure hospitals, to cases involving suspected radicalisation and threats to national security.

Marina also undertakes Inquest and Inquiry work. To date, this has centred on prisons. She has been instructed in numerous inquests involving self-inflicted deaths in custody in adult and young offender institutions in which the processes for managing risks of self-harm have been scrutinised.

Marina contributed to *The Inquest Book, The Law of Coroners and Inquests*, Bloomsbury.

Another strand of Marina's public law practice is in the healthcare sector. She has been instructed in many cases involving the reconfiguration of NHS hospital services, most frequently defending claims brought on the grounds of inadequate consultation and breach of the Public Sector Equality Duty. Her cases include *R (Royal Brompton and Harefield NHS Foundation Trust) v Joint Committee of Primary care Trusts & Another*; *R (Save our Surgery) v Joint Committee of Primary Care Trusts & Another*; *R (London Borough of Ealing) v NHS Commissioning Board*; *R (Enfield London Borough Council) v Barnet Clinical Commissioning Group & others*. She also handled claims brought on the closure of dangerous and severe personality disorder (DSPD) units in secure hospitals when restricted patients were transferred into the prison estate. Cases include *R (RW) v Secretary of State for Justice*; *R (LE) v Secretary of State for Justice*.

Marina has discussed Radicalisation (Ep. 8) and the Prevent Duty Guidance (Ep. 75) on our podcast, Law Pod UK.

She chaired the recent webinar 'India & the Rule of Law: in 2021, is India still a Liberal democracy?'

Healthcare and Court of Protection

As well as being instructed in public law challenges to the reconfiguration or closure of hospital services (see Public Law dropdown), many of Marina's cases have centred on the impact of closing care homes or psychiatric facilities on grounds of patient safety and in light of safeguarding alerts and regulatory breaches. Cases include *Griffiths & ors v Care Quality Commission & ors* and *Arlington House v Torbay Care Trust*.

Marina has been instructed in numerous cases involving the detention, management, discharge and recall of mentally disordered patients within the meaning of the mental Health Act 1983. She has advised and appeared in cases involving restricted patients, detained under 37/41 MHA 1983 at Broadmoor, Ashworth and Rampton Special Hospitals, including on the occasion when Dangerous and Severe Personality Disorder (DSPD) units were closed. Cases include *R (L-H) v Secretary of State for Justice*; *R (G) v Nottinghamshire Healthcare trust & Others*.

Marina has been instructed in many employment disputes in the healthcare sector, including many claims of discrimination, bullying and harassment, and whistleblowing.

Marina is a regular contributor to the Quarterly Medical Law Review and recently discussed the Cumberlege Review on Ep. 128 of Law Pod UK. Read more in her recent UK Human Rights Blog post 'Covid, Consent and the Court of Protection' and 'Cases against the medical profession: an extended review'.

Employment & Equality

Marina has many years' experience litigating employment disputes, mainly representing government departments and public bodies including the NHS. She has developed special expertise in discrimination, bullying and harassment and whistleblowing cases.

In some of her cases there is a background of professional failure, where health visitors, midwives or social

workers, have been dismissed following high profile incidents involving the death of a child. Marina has also been instructed in cases involving judicial office-holders who have been disciplined on grounds of misconduct or removed from office. In *R (on the application of Forrest) v Lord Chancellor and the Lord Chief Justice*, for example the Court confirmed the removal of a sitting Coroner.

Marina is currently focusing her employment work on workplace mediation and undertaking investigations – into any form of suspected misconduct, harassment or discrimination. She also offers training in mediation to corporate and public bodies which are developing their own in-house skills in this area.

Marina has recently been appointed as the Chair of Chambers' Equality and Diversity Committee and previously served on the Bar Council Equality and Diversity Committee and on the Bar Disciplinary Tribunal.

Family Law

Marina can draw on extensive experience in public and private law children proceedings, which in latter years she has focused on the human rights and public law aspects of family work.

Her cases increasingly involve a cross-border element. She has been instructed in numerous public law proceedings in which children were considered at risk of serious harm as a result of travel to Syria or suspected radicalisation. These invariably raise sensitive disclosure issues and on occasion claims for public interest immunity. Her cases include *London Borough of Wandsworth v K*; *Hertfordshire County Council v. A, J & Others*; *Re C (A Child) (no 2) (Application for Public Interest Immunity)*.

Other recent cases raise jurisdiction issues. In *Brighton & Hove City Council v VM & Others*, the Court determined the habitual residence of a Russian child and appropriate jurisdiction to consider long-term care, applying Brussels II and the Hague Convention.

Marina has reported the Courts' Judgments in claims brought by Shamima Begum on the UK Human Rights Blog and can be heard discussing Radicalisation and the Prevent Duty Guidance on Law Pod UK Ep. 8 and 75.

Appointments

- Chair of Chambers' Equality and Diversity Committee (2021)
- Bar Council Equality and Diversity Committee (Former Member)
- Bar Disciplinary Committee (Former Member)
- Ambassador for Desmond Tutu Foundation, UK (2015)
- Advisory Board member of Common Law Centre, Renmin University, Beijing (2017)
- Executive Board member of Great Britain China Centre (GBCC) (2019)
- Attorney General's Panels of Counsel, first 'B' then 'A' Panel (2004 – 2016)

Education

- Law Tripos, University of Cambridge (BA)
- Licence Spéciale en Droit Européen, ULB (Brussels)

Memberships

- ALBA
- Bar European Group
- FLBA
- HRLA

Publications

- 'India & the Rule of Law: in 2021, is India still a Liberal democracy?' UK Human Rights Blog Webinar, 2021
- Law Pod UK Ep. 8 & on Radicalisation, Ep. 75 on Prevent Duty Guidance and Ep. 128 on the Cumberlege Review, Ep. 138 on Mediation.
- Regular contributor to the UK Human Rights Blog
- Contributor to the 1COR Quarterly Medical Law Review (QMLR)
- Contributing author to, 'The Inquest Book: The Law of Coroners and Inquests' (Hart Publishing, 2016)