

## Martin Downs

Call: 1990



Martin Downs has a practice which covers Public Law involving Human Rights and Equality (including Children's and Mental Capacity) law, Local Government (including Police and Education), Inquests and Professional Regulation. He has particular expertise as an appeal advocate (frequently when not having appeared at first instance).

As concerns children's rights, he has a High Court practice covering a wide area. He devised (with Natasha Watson of Orbis Law) the strategy of using the inherent jurisdiction to tackle radicalisation and prevent young people being persuaded to fight in the Syrian civil war. He has appeared in leading cases on modern slavery, forced marriage and contested adoptions. Much of his work has an international element including child abduction and the placement of children outside the jurisdiction by Local Authorities (his experience would cover virtually every country of the EEA and also many states in the US, Russia, South Asia and Israel.) He has a particular expertise in Media Law in this field and on restrictions on disclosure. Recently he has appeared in a series of cases representing Polish families in Appellate cases in England and Wales. He has also appeared in a series of cases where one parent has murdered another or there is alleged NAI (especially if treating physicians face allegations as well).

In Employment and Professional Regulatory Law, many of Martin's cases involve the GMC, Ofsted and Cafcass and concern safeguarding issues (e.g. Head teachers, Psychiatrists and Social Workers). He has some restrictions on where he can appear as Counsel as he has sat as an Employment Judge since 2012. He has significant experience in the EAT, High Court and Court of Appeal – particularly with injunctions.

His extensive experience in Police and Local Government includes judicial review of Local Authority decisions and Search Warrants (with section 59 applications if required) and also cases concerning safeguarding, disclosure, publicity and injunctions to protect children and vulnerable people. This ties into his inquests work, which includes cases concerning the Police, Local Government and the Police – particularly where Art 5 is involved.

He appears regularly in the Court of Protection in both welfare and property and affairs cases.

Martin also has particular expertise in Equality Law including in the provision of goods, facilities and services especially as concerns disability and sexual orientation discrimination.

He is also concerned with the provision of training and often lectures and gives seminars. Martin spoke on Radicalisation and the Prevent strategy at the 2017 Public Law Conference; Radicalisation, Schools and the Law at the Local Government and Education Law Conference 2017; and Costs, Public funding and Human Rights claims at the Court of Protection Conference 2017.

He has appeared on Newsnight and Panorama and has written for the Guardian as well as in law journals discussing such subjects as radicalisation, same-sex marriage and civil partnerships. He is regularly called upon to give his lecture, "Do you speak colloquial MHPS?" about problems with employment rights in the NHS.

With Nicola McGeown he co-founded a Quality Circle in 2017 in Sussex dedicated to disseminating the latest research amongst practitioners.

Since its launch, Martin has been on the editorial team for [UK Human Rights blog](#).

## Public Law

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Martin Downs has a distinct practice covering judicial review (frequently involving issues of social care) and children's and mental capacity proceedings (frequently at appellate level) concerning such subjects as radicalisation, international placement and re-location, modern slavery, forced marriage, Human Rights and damages.

He has a distinct practice in care proceedings and radicalization prevention cases. Further able to take on cases with significant family law element. He uses this knowledge to handle inquests, including those concerning the deaths of children in care. Recently, he has acted in a series of judgments concerning the Prevent strategy in regards to prohibiting children from going to Syria, Iraq and Libya.

Listen to Martin talk about his experience tackling radicalisation in the civil courts on episode 13 of our podcast Law Pod UK [here](#).

## Selected Cases

### Mental Capacity

- **YLA v PM & Another [2013] EWHC 4020 (COP) [2014] COPLR 114:** Forced Marriage.
- **Re UF (Secretary of State intervening) [2014] COPLR 93 Charles VP** Costs in the Court of Protection

### International Issues

- **A v B [2018] EWHC 328 (Fam) (06 February 2018):** Successful appeal – removal to Poland
- **Re E (Brussels II Revised: Vienna Convention: Reporting Restrictions) [2014] 2 FLR 151 Munby P.**
- **P (A Child) [2014] EWCA Civ 1174:** Article 8 and the placement of children outside the jurisdiction.

- **Leicester City Council v Chhatbar [2014] 2 FLR 1365**: Return of a child from Northern Cyprus.
- **A Council v M & Others (No. 4) [2014] 1 FLR 881**: Foreign Adoption: Refusal of Recognition.
- **West Sussex County Council v Jade Alma [2017] 1 FLR 1383**: [2016] EWHC 2009 (Modern Slavery)
- **In Re TG (Placement in The Gambia) [2017] EWFC 85 Theis J.**

## The use of Wardship in atypical cases

- **Re K Wardship Order (No. 2) [2014] 2 FLR 310**: Publicity.
- **Re E Wardship Order [2013] 2 FLR 63**: Child in Voluntary Accommodation.

## Human Rights and contested adoptions

- **Re T (A Child) (Early Permanence Placement) [2015] EWCA Civ 983 [2017] 1 FLR 330. Re C [2014] 2 FLR 131**: Appeal from Care and Placement Orders.
- **Re H (A Child) (Appeal) [2015] EWCA Civ 1284, [2016] 2 FLR 1173**
- **Re W (A Child) (Adoption) [2017] EWHC 829 (Fam); [2017] 2 FLR 1628**: Munby P said, "This is a very complex and worrying case. It is, I think, by some margin the most difficult and concerning case of its type I have ever been involved in."
- **Re W (A Child) (No 2) [2017] EWHC 917**: certification of leap-frog appeal to the Supreme Court.
- **Re W (A child) (No. 3) [2017] EWHC 1032 (Fam) [2017] 1 FLR 1714**: dating of an Adoption Order.
- **Re W (A Child) (No 4) [2017] EWHC 1760; 167 NLJ 7755 (10 July 2017)**: Court dismissed applications to set aside an adoption/prevent the removal of a child from the jurisdiction and an application for post-adoption contact after an extraordinary evening hearing of the High Court.

## Freedom of Expression/confidentiality

- **Re K Wardship Order [2014] 1 FLR 548**: Publicity.
- **A Council v M & Others (No. 3) [2012] EWHC 4241 (Fam)**: Reporting Restriction Order: Adoptive Child; Artificial Insemination.

## Serious child abuse or medical issues

- **AB (Childhood Vaccination) [2021] EWHC 158 1**: Childhood vaccination injunction challenge.
- **CN & GN v Poole BC [2019] UKSC 25**: landmark case on duty of care to protect children from harm.
- **CL (Fact Finding : Coercive Control) [2020] EWFC 109**: Case of serious abuse and coercive control.
- **A Council v M & Others (No. 1) [2013] 2 FLR 1229**: Fact-Finding: Artificial Insemination.

## Radicalisation

- **Re Y (Risk of Young Person Travelling to Join IS) (No 1) [2015] EWHC 2098 [2016] 2 FLR 225**: Article 2 and obtaining injunctions to prevent travel abroad.
- **Re Y (Risk of Young Person Travelling to Join IS) (No 2) [2015] EWHC 2099 [2016] 2 FLR 229**: Use of wardship to provide protection against radicalisation.
- **A Local Authority v Y [2017] EWHC 968; [2018] 1 WLR 66 Hayden**: Article 2.

# Employment & Equality

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In Employment and Professional Regulatory Law, many of Martin's cases involve Ofsted and Cafcass and concern safeguarding issues (e.g. Head teachers, Psychiatrists and SWs).

Martin also has particular expertise in discrimination law, including in the provision of goods, facilities and services especially as concerns disability and sexual orientation discrimination.

## Selected Cases

- **Kerslake v. North West London Hospitals NHS Trust [2012] EWHC 1999 (QB); [2012] Med LR 568, QB.**
- **King v Health Professions Council [2012] UKEAT 0169\_11\_1307 (2012):** Race Discrimination : Discrimination by other bodies.
- Negotiated settlement of £160,000 in age discrimination case (2007).
- **Re: A (2006):** reasonable adjustment in case under the Disability Discrimination Act 1995 concerning the ability of a hearing impaired person to participate in Council meetings.
- **Siegler v Worthing Borough Council [2004]:** successfully represented the leader of the Council and the Council defending a claim of sex discrimination by the Chief Executive which involved new law concerning: Article 10 (Freedom of Expression), the Status of Council's Monitoring Officers, the liability of Councillors and the Leader of the Council.

# Local Government & Police Law

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His extensive experience in this field includes safeguarding, disclosure, publicity and injunctions to protect children and Human Rights law concerning children. This ties into his inquests work which includes the deaths of children in care.

## Selected Cases

- **Sussex Police v Secretary of State for Transport & Anor [2016] EWHC 2280 (QB) (28 September 2016):** Determined the circumstances in which the Police may seek material held by the AAIB after an air crash pursuant to the Chicago Convention.
- **Mills & Anor, R (on the application of) v Sussex Police & Anor [2014] EWHC 2523 (Admin) [2015] 2 All ER 956, [2015] 1 WLR 2199, [2014] 2 Cr App Rep 535, [2015] Crim LR 306,:** Judicial Review of Search Warrants in serious fraud.
- **Re H (Children) [2009] EWCA Civ 704:** disclosure to the Police.

# Inquests

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## Selected Cases

- **Re P (2017)**: representing the Police in an Inquest which examined alleged Police failures to protect the deceased from child sexual abuse.
- **Re M (2016)**: death of a child in care – alleged failings by Police to keep young person safe from threats to life.
- **Re G (2015)**: representing Local Authority in cases concerning alleged defects in social care.
- **Various (2012 – 2017)**: series of Inquests of young people from overdoses.
- **Re C (2007)**: representing the Police in an Inquest considering defects to Police Vehicles (where Police car ran over a deaf woman on a designated crossing).

## Appointments

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- Employment Tribunal Judge (Fee paid) (2002 – present)
- TSol Provincial Panel (2008 – 2013)

## Education

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- LLM (Employment Law), University of Leicester (2002)
- Bar Vocational Course, Inns of Court School of Law (1990)
- Diploma in Law, City University (1989)
- Degree in Philosophy, Politics & Economics, Brasenose College, Oxford (1984 – 1987)

## Publications

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- Regular contributor to the [UK Human Rights Blog](#) on Children's Law and to Family Law, Family Law Week and The Guardian for articles on equality.
- 'India & the Rule of Law: in 2021, is India still a Liberal democracy?' UK Human Rights Blog Webinar, 2021
- Law Pod UK Ep. 13: [Tackling Radicalisation](#)
- Same Sex Marriage: the New Law (with others), Jordans (2014)
- Co-author of "Civil Partnership – The New Law," Jordans (2005)
- "We are family: Children & Civil Partnership" Childright: Journal of Law and Policy; University of Essex (June 2005)