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Legal 500 2011

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# Education Law

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The members of the Matrix education law team are specialists in this field with considerable expertise and experience of writing, advising, training and litigating in education law. That expertise overlaps with our strengths in public law more generally, human rights law, local government law, employment law and discrimination law.

Our aim is to provide a friendly, effective and comprehensive service to parents and children, NGOs including charities, schools, colleges, universities and Local Education Authorities.

As a team and as individuals, we have been identified as leading practitioners in education law by the Legal 500 and the Chambers & Partners Guide to the Legal Profession.

Members of our team have recently been involved in the leading cases in areas such as reinstatement of excluded pupils, the jurisdiction of the SENDIST, the contents of Statements of Special Educational Needs and the inclusion into mainstream of pupils with SEN.

We are involved in cases concerning:

Special educational needs including appeals to the First Tier Tribunal (formerly Special Educational Needs and Disability Tribunal), appeals from the FTT to the Upper Tribunal (formerly High Court) and above, and judicial review challenges to compel delivery of provision in a Statement of Special Educational Needs

Cases involving discrimination including on grounds of disability, sex, race, sexual identity or religion throughout the education system (including in schools, colleges and universities)

Discipline matters including exclusions from schools, colleges and universities, including judicial review challenges to decisions of governing bodies and Independent Appeal Panels

Admissions including judicial review and discrimination challenges to admissions criteria decisions of Admissions Appeal Panels

School closures and school re-organisations including judicial review challenges to pre-closure consultations and decisions of School Organisation Committees

Employment questions that are specific to the education field in both maintained and independent schools

Educational negligence and other damages claims in both maintained and independent schools

University and college matters including admission and disciplinary cases, including those involving a 'Visitor'

## Notable cases

**CM v London Borough of Bexley (SEN) [2011] UKUT 215 (AAC)** Case presenting the question of the interaction between two provisions, each concerning parental preference for a particular special school, making clear that separate considerations arise: paragraph 3(3)(b) of schedule 27 of the Education Act 1996 and section 9 of that Act.

**EH v Kent County Council [2011] EWCA Civ 709** The appellant contended that the special needs of her grandson should be met at an independent school.

**K v LB Hillingdon (SEN) [2011] UK UTT 71** Concerning the authority's error in that the claimant's looked after child status had come to an end in relation to her statement of SEN and decisions about school placement.

**MS v LB Brent [2011] UKUT 50** Considers application of Ss 316 and 319 Education Act 1996 in relation to a young child with autism.

**K v LB Hillingdon [2011] UKUT 71** Appeal against statement of SEN at 'phase transfer', local authority sent claimant's daughter to local maintained generic day special school which could be supplemented by a very large package of respite/social care due to 'unreasonable public expenditure'.

**City of Edinburgh Council v Mrs MDN [2011] CSH 13** Considering the decision by the Additional Support Needs Tribunal for Scotland to overturn Edinburgh Council's decision not to support the placement of a child with an Autism Spectrum Disorder in a residential special school as opposed to a local day school with additional support.

**R (LG) v The Independent Appeal Panel for Tom Hood School & SS for DCSF [2010] EWCA Civ 142** Concerning a challenge to local authority's decision to cease maintaining claimant's statement of special educational needs under the Education Act 1996, Sch 27, para 11(1).

**Webster & Ors v Ridgeway Foundation School [2010] EWHC 157 (QB)** Concerning damages sought against defendant school for injuries the claimant had suffered to his head as a result of hammer blows inflicted whilst he was on the school's grounds.

**E v JFS [2009] UKSC 15** Whether admissions criteria for the Jewish Free School amounted to direct or indirect race discrimination.

**R(AM) v Birmingham City Council [2009] EWHC 688** Whether local authority had failed to have regard to its general duties pursuant to the Disability Discrimination Act 1995 when it refused to provide toileting equipment to student at university.

**TM v Hounslow [2009] EWCA Civ 859** Correct approach to education of child with special educational needs at home pursuant to Education Act 1996 s 319.

**R (V) v The Independent Appeal Panel for Tom Hood School & Ors [2009] EWHC 369** Concerning the parent of a pupil arguing for the application of Article 6 ECHR to the process of permanent exclusion from school, and thus for the application of a criminal standard of proof in the appeal.

**Chandler v Camden LBC & Ors [2009] EWCA Civ 1011** Concerning the process by which Camden and the

Secretary of State had established a new academy and selected the sponsor for the new academy (including the applicability to that process of the EU public procurement regime).

**Hampshire v R [2009]** Concerning the parent of a pupil in an appeal relating to the ambit of Section 9 of the Education Act 1996, and the test which needed to be applied in displacing a parental preference for a maintained school.

**Hill v Bedfordshire County Council [2008] EWCA 661** Challenge to failure to maintain a Statement for a child with Special Educational Needs after he turned 16

**X v Y School [2008] 1 All ER 249** Challenge to refusal to allow Muslim girl to wear veil at school.

**R (Elphinstone) v City of Westminster & Ors [2008] EWCA Civ 1069** Concerning the parent of a pupil challenging Westminster's failure when proposing the closure of a maintained school to provide full information about the replacement "Academy".

**R(MG) v London Borough of Tower Hamlets [2008] EWHC 1577** Concerning the parent of a child in local authority care seeking to enforce compliance by the local authority with an order by the Special Educational Needs and Disability Tribunal that her son be made available for assessment by an educational psychologist.

**O v Governing Body of Park View Academy [2007] ELR 454, CA** Challenge to refusal of allow pupil to return to classroom after he was reinstated by an Independent Appeal Panel.

**Coventry City Council v SENDIST & Ors [2007] EWHC 2278 (Admin)** Establishing that the additional expenditure of a maintained school was in law to be treated as additional expenditure by the local education authority when considering the efficient use of resources.

**O v Lewisham LBC & SENDIST [2007] EWHC 2092 (Admin)** Establishing that the public expenditure to be considered for the purposes of Section 9 of the Education Act 1996 included all public expenditure, and in particular, public expenditure of the social services department of the local authority, as well as its education department.

**Wolverhampton CC v SENDIST & Anor [2007] EWHC 1117 (Admin)** Concerning the failure of a local authority to cease to maintain a statement of Special Educational Needs (thus triggering a right of appeal), when her son ceased to be of compulsory school age.

**Gray v Marlborough College [2006] ELR 516, CA** Breach of contract claim brought by father of boy excluded from Marlborough College.

**P v Schools Adjudicator & Ors [2006] EWHC 1934 (QB)** Concerning the adjudicator's decision to approve proposals to discontinue a maintained school in anticipation of establishment an academy.

**R(S) and R(B) v City of Birmingham Independent Appeal Panel (2006)** Reasons must be given by an Independent Appeal Panel if it upheld drug-related exclusions from school in application of local, in preference to national, policy.

## Notable cases

London Borough of Bromley v C [2006] EWHC 1110 Concerned liability of parents to prosecution when children do not attend school while on holiday without the authority of the school.

R (Parents for Legal Action Ltd) v Northumberland County Council [2006] EWHC 1081 (Admin) Judicial review relating to a major proposal to change the Council's education system from three-tier (i.e. first, middle and high schools) to two-tier (i.e. primary and secondary schools).

R (Begum) v Headteacher and Governors of Denbigh High School [2006] UKHL 15 Concerning exclusion from school on the grounds of refusal to follow uniform requirements.

London Borough of Islington v Osuala [2005] ELR 581 High court appeal concerning the naming of a type of educational provision required by a Special Educational Needs and Disability Tribunal.

H v Hounslow [2004] EWCA Civ 770 Nature of the 'inclusion' obligation under section 316 Education Act 1996.

VK v Norfolk County Council [2004] EWHC 2921 Admin, *The Times* 6 January 2005 Appeal involving the Disability Discrimination Act, raising important issues under that Act and in relation to the provision of reasons by a Tribunal.

Abdul Hakima v Lord Grey School [2004] EWCA Civ 382 Damages under Art 2 Prot 1 ECHR for unlawful exclusion.

FJ v Cambridgeshire CC [2003] E.L.R 464 Role of parents in making special educational provision.

A v Barnet [2003] EWHC 3368 (Admin) Process for drawing up statement of SEN; interaction between religion and special educational needs.

K v Wandsworth [2003] EWHC 2992 (Admin) SENDIST decision quashed for failure to understand key evidence.

L v Waltham Forest [2003] EWHC 2907 (Admin) Obligation on SENDIST to give reasons for its decision and in relation to expert evidence.

W v Blaenau Gwent [2003] EWHC 2880 (Admin) Obligations in relation to SEN Code of Practice; test for cessation of Statement.

KW v Rochdale [2003] EWHC 1770 (Admin) Statement not unlawful by reason of imposing burden on parents to deliver education.

K v Wandsworth [2003] EWHC 1424 (Admin) Statement for child receiving home-based Lovaas needed to specify it in Parts 3 & 4.

DM & KC v Essex [2003] EWHC 135 Admin LEA policy which required parents to deliver part of a child's special educational provision was unlawful.

IPSEA v Secretary of State [2003] EWCA Civ 7 Challenge by leading SEN NGO to the Secretary of State's guidance on Statements of SEN.

E v Newham [2003] EWCA Civ 9 Lawful for SENT not to specify special educational provision for child at a special school who urgently needed to return to school and there was no evidence as to amount needed.

## Directory recommendations

Legal 500 2011 recommends Matrix as a tier 2 set for Education law, with Cherie Booth QC and Sam Grodzinski QC recommended as leading Silks. David Wolfe is recommended as a leading Junior (band 1), while Dan Squires, Nick Armstrong and Matthew Purchase are also recommended as leading Juniors.

Matrix is ranked in band 2 for Education law by Chambers & Partners 2012; "*Boasting strong public law and human rights expertise, Matrix as a set is able to draw upon uncommon knowledge when advising on education matters. It houses a host of vastly experienced and committed barristers, who are backed up by similarly well-regarded clerks, noted for being highly organised and very responsive.*" Helen Mountfield QC is hailed as "*knowledgeable and energetic*" and Sam Grodzinski QC as "*articulate, clear and impressive all round.*" David Wolfe is recommended as a leading Junior, a "*guru of education law.*" Also recommended are Daniel Squires, Nicholas Armstrong, and Mathew Purchase.

## Matrix contacts:

Further information on Matrix Education law practice, and the experience of individual members of the team can be obtained from the group coordinator.

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