



"He is a very pugnacious opponent, produces quality written work and is always clear in his courtroom presentations." *Immigration, Chambers UK 2017*

"He's frustratingly good." *Immigration, Chambers UK 2017*

"He is reliable, hard-working, and straightforward in his dealings" *Immigration, Chambers UK 2015*

He's very bright and is involved in a ton of cases *Immigration, Chambers UK 2014*

Alan Payne has been recommended as a leading junior in the fields of human rights and immigration law in the Legal 500 since 2006; in Legal Experts since 2007 and in Immigration law in Chambers and Partners since 2010.

"Alan Payne maintains a public law-focused immigration practice, and spends the majority of his time litigating in the higher courts on behalf of state authorities. His high work rate has attracted the attention and praise of his peers" *Immigration, Chambers UK 2013*

Alan is Junior Counsel to The Crown Panel of Counsel for Government work – A Panel (2011) (previously B panel 2007-2010 and C panel 2004-2007). He is Develop Vetted.

Background:

Alan specialises in public law, inquests, police law and employment law and accepts instructions in all of chambers' main practice areas including: human rights (domestic and international), immigration and asylum, police law, inquiries, inquests, civil liberties, and employment. Recent public law, police law cases of Inquiries are set out below.

Public Law/Immigration law:

Alan acts primarily for public authorities with an emphasis on Human Rights and immigration related cases.

He regularly appears in the Court of Appeal and the High Court. He recently represented the Secretary of State in the Supreme Court in *EM (Eritrea) & Ors v Secretary of State for the Home Department* [2014] UKSC 12.

Inquiries:

Alan acted on behalf of the Metropolitan Police in the Azelle Rodney Inquiry.

Police Law:

Alan acts on behalf of the police in inquests, actions relating to lawfulness of ECRC's, wrongful arrest, assault, false imprisonment, malicious prosecution and claims for breach of Human Rights. In addition Alan acts in Data Protection claims, breach of confidence claims, actions for defamation and discipline proceedings.



ALAN PAYNE

Practice Areas

PUBLIC LAW

PUBLIC INQUIRIES

POLICE LAW

INQUESTS

EMPLOYMENT LAW

Clerks

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Inquests:

Alan regularly acts in Inquests for local authorities, police, prison services and other state bodies.

Alan was a junior Counsel for the Security Services in the Inquest into the death of Diana, Princess of Wales and Mr. Dodi Al Fayed.

Employment law:

Alan has acted in a number of employment cases for the Department of Work and Pensions (DWP), the Serious Organised Crime Agency (SOCA), the Home Office and the Foreign Office. In addition to standard unfair/constructive dismissal cases, and discrimination cases Alan has been instructed regularly in pensions cases involving transfer provisions between the Metropolitan Police, and SOCA.

He regularly provides high level advice on Transfer of Undertakings (TUPE) issues, and has acted in a number of cases focusing on post termination restraints, both obtaining and resisting injunctions.

Other areas of work: -**Personal Injury:**

Alan has recently extensive specialist experience advising Government departments on a broad range of personal injury matters. These include stress at work claims involving injuries arising from the Iraq war, or from detention in Guantanamo. In addition, Alan has recently acted in a stress at work claim heard over three days by the Court of Appeal in relation to which judgment is awaited.

VAT Tribunals

Alan is instructed in a number of Missing Trader Intra-Community fraud appeals and has acted in more general VAT appeals.

Care Standards Tribunal

Alan has acted for the Respondent in statutory appeals brought under section 86 of the Care Standards Act 2000 (CAS) by those who have been included on the Protection of Vulnerable Adults list (PoVA) and/or the Protection of Children Act list (PoCA).

Commercial/Civil

In addition, Alan is instructed in commercial disputes involving breach of directors fiduciary duties/trust, arbitrations (contractual disputes involving the outsourced provision of detention centres, removal of failed asylum seekers), contractual disputes involving penalty clauses, enforceability of guarantees, restraints of trade, undue influence, and disputes involving sales of goods and services.

Other:

Alan assisted in the drafting of the employees' handbook for Chelsea F.C.

He is also the co-author of Tolley's Employment Tribunals Handbook - first published in October 2002. The fourth edition of the book was published in early August 2014.

Lectures:

Alan has lectured on a range of matters, including Human Rights issues, Immigration law and Employment law.

Significant cases

Police

E7 v Sir Christopher Holland and the Commissioner of the Police of the Metropolis & Ors (Interested Parties) [2014] EWHC 452 - Alan acted a junior for the MPS. The Divisional Court held that whilst determining an application for permission to seek judicial review of a public inquiry into the shooting of a suspect by a police officer, the court commented that police operations were dynamic situations and analysing them by fractions of a second with the benefit of hindsight was to be discouraged. However, the application was refused as the chairman had been entitled to conclude that the officer had no lawful justification for shooting the suspect.

Bianca Durrant v Chief Constable of Avon & Somerset Nottinghamshire [2013] EWCA Civ 1624 - the Court of Appeal overturned a judge's decision to grant relief from sanction for non-compliance with a court order on the grounds that the judge had failed to follow the robust approach laid down in Mitchell v News Group Newspapers Ltd [2013] EWCA Civ 1537, [2014] 1 W.L.R.

Desmond v Chief Constable of Nottinghamshire [2011] EWCA Civ 3 - a chief constable responding to a request for information to be included in an enhanced criminal record certificate under the Police Act 1997 s.115(7) did not owe a duty of care to the person applying for the certificate.

Barry George v Metropolitan Police Service - a challenge brought by the Claimant to the lawfulness of the decisions of the Panels, chaired by the MPS, to include him in the Multi-Agency Public Protection Arrangements (MAPPA) scheme. The Claimant was unsuccessful in his claim that his inclusion in MAPPA was (i) unlawful and/or (ii) unduly intrusive amounting to an infringement of his Article 8 rights, on the grounds that they are disproportionate to the aim pursued in imposing them.

Coker v IPCC & MPS & Wood [2010] EWHC 3625 in which the High Court held that the Independent Police Complaints Commission was entitled to revise its decisions as to what, if any, recommendations as to disciplinary action should be brought against a police officer.

Control orders

SSHD v (1) AT and (2) AW [2009] EWHC 512 - a report relied upon by the SSHD to make a non-derogating control order against a Libyan national was misleading, as the use of the present tense erroneously suggested that he had resumed terrorist-related activities following his release from prison. Accordingly, the SSHD's decision to make the order was flawed. There was nothing in the relevant report that suggested the individual in question had resumed terrorist activities.

Fulham F.C. - in the case brought by Jean Tigana (employment tribunal/EAT).

Inquiries

E7 (an officer of the MPS) v Chairman of the Inquiry into the death of Azelle Rodney and various interested parties [2014] EWHC 452 - the Divisional Court rejected a challenge to the Chairman's report and provided guidance as to how the lawfulness of multiple shots should be assessed.

MPS v v Chairman of the Inquiry into the death of Azelle Rodney and various interested parties [2012] EWHC 2783 - the Divisional Court concluded that the chairman of a public inquiry had been entitled to find that there should be limited disclosure to the legal team of an interested party of material in relation to which the police sought a restriction order in the public interest, because disclosure was "necessary" for determination of the restriction order application within the meaning of the Inquiry Rules 2006 r.12 (4) (a).

Inquests

Kent County Council v HM Coroner for Kent (Defendant) & Mr. and Mrs. Barry (Interested Parties) [2012] EWHC 2768 - a successful challenge was made of the Coroner's decision that Article 2 was engaged.

Sumaiya Patel v Lord Chancellor & Assistant Deputy Coroner for Inner West London [2010] EWHC 2220 - held that the widow of one of the bombers responsible for the bombings in London on July 7, 2005 failed to show that there was a significant wider public interest in her having exceptional funding for legal representation at the inquest into the deaths caused by the bombings.

Employment

This case involved a challenge to the lawfulness of pre-employment checks, which involve consideration of the immigration history of the potential employee.

Alan was instructed in this case on a challenge to the lawfulness of the national security requirement that those who have access to sensitive material need to have British nationality.

Alan was instructed in this test case brought against SOCA by interpreters, who unsuccessfully sought to argue that they were employed as opposed to self-employed.

DEFRA v Huish and Robertson [2005] IRLR 363

Chelsea F. C. - in the case involving the dismissal of Mark Bosnich.

Public Law/Immigration

EM (Eritrea) & Ors v Secretary of State for the Home Department [2014] UKSC 12 - a case in which the Supreme Court gave guidance as to the correct test in determining human rights claims brought by those seeking to challenge transfer between Member States.

Tabrizagh & 5 Ors v Secretary of State for the Home Department [2014] EWHC 1914 - multiple claims brought by asylum seekers trying to establish an entitlement to an in-country right of appeal on human rights grounds against their removal to Italy.

Grenville College London and Birmingham College London v Secretary of State for the Home Department [2014] EWHC 1065 - revocation of multiple licences of educational colleges.

Biruk Habte & Ors v SSHD [2013] EWHC 3295 - Alan was instructed to act where an asylum seeker claimed to have left the European Union for more than three months between his first and second asylum claims. The Member State in receipt of his second claim was entitled to follow the procedural steps set out in Regulation 343/2003 art.16 (1) to return him to the first Member State. It did not have to investigate his claim or check whether the first Member State's obligation to take back the asylum seeker had ceased.

MC (Guinea) & Ors v SSHD [2013] EWCA 922 - this case held that courts needed to exercise caution before they ordered blocks of immigration cases to be stayed simply because an appellate decision was awaited in another case. In the instant case, the continuation of stays in three asylum claims pending a final decision in R. (on the application of EM (Eritrea)) v

Secretary of State for the Home Department [2012] EWCA Civ 1336, [2013] 1 W.L.R. 576 was no longer justified and the stays were lifted.

AB (Sudan v. SSHD) [2013] EWCA 921 - the court refused to grant a stay of an asylum seeker's claim for judicial review of a decision that he should be returned to Italy pending the appeal to the Supreme Court in R. (on the application of EM (Eritrea)) v Secretary of State for the Home Department [2012] EWCA Civ 1336, [2013] 1 W.L.R. 576, where the same issues arose. The power to stay immigration cases pending a future appellate decision had to be exercised cautiously and only when necessary, in the interests of justice.

AR (Iran)) v SSHD [2013] EWCA 778 - an asylum seeker did not have the right under Directive 2005/85 art.6(2) to challenge the apportionment of responsibility between Member States under Regulation 343/2003 (Dublin II) regarding asylum claims by a third-country national.

MB & Ors v. SSHD [2013] EWHC 123 - rejecting the challenge of four asylum seekers had failed to gain asylum in Malta, and had later entered the United Kingdom, they were simply individuals who had entered the UK unlawfully rather than true asylum seekers. The Secretary of State was entitled to issue third country certificates and remove them to Malta under Dublin II.

EM (Eritrea) v SSHD [2012] EWCA Civ 395 - the Court of Appeal confirmed that a Member State was only required to entertain a re-application for asylum under Regulation 343/2003 art.3 (2) and to refrain from returning the applicant to the state of first arrival where the risk faced by the applicant was because of a systematic deficiency in the first state's asylum and reception procedures, which the second state was aware of.

Personal injury

John Yapp v Foreign & Commonwealth Office [2013] EWHC 1098 - an employer acted in breach of contract and in breach of its duty of care in withdrawing an employee from his post as High Commissioner without affording him fair treatment. It failed to give him details of the allegations against him and discussed them with him. The FCO's appeal against this decision was heard by the Court of Appeal over three days in July 2014.

Burn & Ors v MoJ [2012] EWHC 876 - Alan acted on behalf of the Ministry Of Justice in successfully defending High Court proceedings involving a claim by a number of prison guards for psychiatric injury, allegedly caused by the armed escape of a dangerous prisoner.

Interests:

Alan enjoys cycling, travelling and cooking. He is an avid reader and enjoys the theatre.

